

112th Congress }
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COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2009

VOLUME I
AFRICA,
EAST ASIA AND THE PACIFIC

R E P O R T

SUBMITTED TO THE

COMMITTEE ON FOREIGN RELATIONS
US SENATE

AND THE

COMMITTEE ON FOREIGN AFFAIRS
US HOUSE OF REPRESENTATIVES

BY THE

DEPARTMENT OF STATE

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



OCTOBER 2012

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

DEPARTMENT OF STATE,
Washington, DC, April 10, 2010.

Hon. John F. Kerry,
Chairman, Committee on Foreign Relations.

DEAR MR. CHAIRMAN: On behalf of the Secretary of State, I am transmitting to you the *Country Reports on Human Rights Practices for 2009*, prepared in compliance with sections 116(d)(1) and 502B(b) of the Foreign Assistance Act of 1961, as amended, and section 505(c) of the Trade Act of 1974, as amended.

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

Sincerely,

DAVID J. KRAMER,
*Assistant Secretary, Bureau of Democracy,
Human Rights, and Labor.*

Enclosure.

PREFACE

The idea of human rights begins with a fundamental commitment to the dignity that is the birthright of every man, woman and child. Progress in advancing human rights begins with the facts. And for the last 34 years, the United States has produced the Country Reports on Human Rights Practices, providing the most comprehensive record available of the condition of human rights around the world.

These reports are an essential tool for activists who courageously struggle to protect rights in communities around the world; for journalists and scholars who document rights violations and who report on the work of those who champion the vulnerable; and for governments, including our own, as they work to craft strategies to encourage protection of the human rights of more individuals in more places.

The principle that each person possesses equal moral value is a simple, self-evident truth; but securing a world in which all can exercise the rights that are naturally theirs is an immense practical challenge. To craft effective human rights policy, we need good assessments of the situation on the ground in the places we want to make a difference. We need a sophisticated, strategic understanding of how democratic governance and economic development can each contribute to creating an environment in which human rights are secured. We need to recognize that rights-protecting democracy and rights-respecting development reinforce each other. And we need the right tools and the right partners to implement our policies.

Human rights are timeless, but our efforts to protect them must be grounded in the here-and-now. We find ourselves in a moment when an increasing number of governments are imposing new and crippling restrictions on the nongovernmental organizations working to protect rights and enhance accountability. New technologies have proven useful both to oppressors and to those who struggle to expose the failures and cowardice of those oppressors. And global challenges of our time—like food security and climate change; pandemic disease; economic crises; and violent extremism—impact the enjoyment of human rights today, and shape the global political context in which we must advance human rights over the long term.

Human rights are universal, but their experience is local. This is why we are committed to hold everyone to the same standard, including ourselves. And this is why we remember that human rights begin, as Eleanor Roosevelt said, “in small places close to home.” When we work to secure human rights, we are working to

protect the experiences that make life meaningful, to preserve each person's ability to fulfill his or her God-given potential. The potential within every person to learn, discover and embrace the world around them; the potential to join freely with others to shape their communities and their societies so that every person can find fulfillment and self-sufficiency; the potential to share life's beauties and tragedies, laughter and tears with the people they love.

The reports released today are a record of where we are. They provide a fact-base that will inform the United States's diplomatic, economic and strategic policies toward other countries in the coming year. These reports are not intended to prescribe such policies, but they provide essential data points for everyone in the U.S. Government working on them. I view these reports not as ends in themselves, but as an important tool in the development of practical and effective human rights strategy by the United States Government. That is a process to which I am deeply committed.

The timeless principles enshrined in the Universal Declaration of Human Rights are a North Star guiding us toward the world we want to inhabit: a just world where, as President Obama has put it, peace rests on the "inherent rights and dignity of every individual." With the facts in hand, and the goals clear in our hearts and heads, we recommit ourselves to continue the hard work of making human rights a human reality.

HILLARY RODHAM CLINTON,
Secretary of State.

OVERVIEW AND ACKNOWLEDGMENTS

WHY THE REPORTS ARE PREPARED

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

In the early 1970s the United States formalized its responsibility to speak out on behalf of international human rights standards. In 1976 Congress enacted legislation creating a Coordinator of Human Rights in the Department of State, a position later upgraded to Assistant Secretary. Legislation also requires that U.S. foreign and trade policy take into account countries’ human rights and worker rights performance and that country reports be submitted to the Congress on an annual basis.

HOW THE REPORTS ARE PREPARED

The Department of State prepared this report using information from U.S. embassies and consulates abroad, foreign government officials, nongovernmental and international organizations, and published reports. The initial drafts of the individual country reports were prepared by U.S. diplomatic missions abroad, drawing on information they gathered throughout the year from a variety of sources, including government officials, jurists, the armed forces, journalists, human rights monitors, academics, and labor activists. This information gathering can be hazardous, and U.S. Foreign Service personnel regularly go to great lengths, under trying and sometimes dangerous conditions, to investigate reports of human rights abuse, monitor elections, and come to the aid of individuals at risk, such as political dissidents and human rights defenders whose rights are threatened by their governments.

Once the initial drafts of the individual country reports were completed, the Bureau of Democracy, Human Rights and Labor, in cooperation with other Department of State offices, worked to cor-

roborate, analyze, and edit the reports, drawing on their own sources of information. These sources included reports provided by U.S. and other human rights groups, foreign government officials, representatives from the United Nations and other international and regional organizations and institutions, experts from academia, and the media. Bureau officers also consulted experts on worker rights, refugee issues, military and police topics, women's issues, and legal matters. The guiding principle was to ensure that all information was assessed objectively, thoroughly, and fairly.

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

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

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

Within the Bureau of Democracy, Human Rights and Labor, the editorial staff of the Country Reports Team consists of: Editor in Chief Stephen Eisenbraun; Office Directors: Carlos Garcia, Douglas Kramer, and Kay Mayfield; Senior Editors: Jonathan Bemis, Douglas B. Dearborn, Daniel Dolan, Jerome L. Hoganson, Patricia Meeks Schnell, Julie Turner, and Rachel Waldstein; Editors: Naim Ahmed, Joseph Barghout, Kate Berglund, Sarah Beringer, Marissa Brescia, Sarah Buckley-Moore, Liliana Caparo Ariza, Laura Carey, Elise Carlson-Rainer, Delaram Cavey, Sharon Cooke, Susan Corke, Stuart Crampton, Kathleen Crowley, Frank Crump, Tu Dang, Mollie Davis, Huseyin Dogan, Will Dokurno, Mort Dworken, Amy Feagles, Joan Garner, Solange Garvey, Jeffrey Glassman, Blake Greene, Edward Grulich, Patrick Harvey, Victor Huser, Jill Hutchings, Stan Ifshin, David T. Jones, Simone Joseph, Mancharee Junk, Douglas Kramer, Sarah Labowitz, Jessica Lieberman, Gregory Maggio, Stacey May, John McKane, David Mikosz, Mia Mitchell, Stephen Moody, Sarah Morgan, Perlita Muiruri, Sandra Murphy, Daniel L. Nadel, Catherine Newling, Anand Prakash, Drue Preissman, Gabriela Ramirez, Lea Rivera, Peter Sawchyn, Wendy

Silverman, Catherine Snyder, Erin Spitzer, Rachel Spring, Michael Suttles, Leslie Taylor, James Todd, Kathy Unlu, David Wagner, Nicole Wilett, Karen Yoo; Contributing Editor: Lynne Davidson; Editorial Assistants: Cory Andrews, Carol Finerty, Ronya D. Foy, Lauren Gandillot, Yelipza Gutierrez, Wen Hsu, Raymond Lu, Stephanie Martone, James McDonald, Matthew Miller, Amanda Pourciau, Sabrina Ragaller, and Helaena White; and Technical Assistant Eunice Johnson.

INTRODUCTION TO THE 2009 COUNTRY REPORTS

2009 was a year of contrasts. It was a year in which ethnic, racial, and religious tensions led to violent conflicts and serious human rights violations and fueled or exacerbated more than 30 wars or internal armed conflicts. At the same time, it was a year in which the United States and other governments devoted greater attention to finding ways to acknowledge and combat these underlying tensions through showing leadership in advancing respect for universal human rights, promoting tolerance, combating violent extremism, and pursuing peaceful solutions to long-standing conflicts in the Middle East and elsewhere. As President Obama said in his June speech at Cairo University, we should be defined not by our differences but rather by our common humanity, and we should find ways to work in partnership with other nations so that all people achieve justice and prosperity.

2009 also was a year in which more people gained greater access than ever before to more information about human rights through the Internet, cell phones, and other forms of connective technologies. Yet at the same time it was a year in which governments spent more time, money, and attention finding regulatory and technical means to curtail freedom of expression on the Internet and the flow of critical information and to infringe on the personal privacy rights of those who used these rapidly evolving technologies.

Today, all governments grapple with the difficult questions of what are appropriate policies and practices in response to legitimate national security concerns and how to strike the balance between respecting human rights and fundamental freedoms and ensuring the safety of their citizens. That said, during the past year, many governments applied overly broad interpretations of terrorism and emergency powers as a basis for limiting the rights of detainees and curtailing other basic human rights and humanitarian law protections. They did so even as the international community continued to make tangible progress in isolating and weakening the leadership in violent extremist and terrorist groups such as al-Qa'ida.

This report explores these and other trends and developments and provides a specific, detailed picture of human rights conditions in 194 countries around the world. The U.S. Government has compiled these reports for the past 34 years pursuant to a requirement placed on the U.S. executive by law in part to help the U.S. Congress inform its work in assessing requests for U.S. foreign military and economic assistance, as well as to set trade policies and U.S. participation in the multilateral development banks and other fi-

nancial institutions. The reason for publishing this report is to develop a full, factual record that can help U.S. policymakers to make intelligent and well-informed policy decisions. It has also been increasingly used by policymakers abroad and has become a core reference document for governments, intergovernmental organizations, and concerned citizens throughout the world.

Many have questioned the reason the U.S. Government compiles this report, rather than the United Nations or some other intergovernmental body. One answer is that we believe it is imperative for countries, including our own, to ensure that respect for human rights is an integral component of foreign policy. These reports provide an overview of the human rights situation around the world as a means to raise awareness about human rights conditions, in particular as these conditions impact the well-being of women, children, racial minorities, trafficking victims, members of indigenous groups and ethnic communities, persons with disabilities, sexual minorities, and members of other vulnerable groups. Also, we provide these reports as a form of comprehensive review and analysis. While some nongovernmental organizations (NGOs) do extensive and excellent reporting on some countries, none cover the world as we do. And while we have encouraged more detailed and comprehensive reporting from the UN and other intergovernmental bodies, thus far these organizations have not met this need. Because of this unmet need, the U.S. Congress has mandated this report. Even as we continue this reporting exercise, we encourage the UN to take up this type of thorough and comprehensive reporting, and we stand ready to work with them to meet the challenge. We will continue to press for enhanced UN reporting, for example through the UN Human Rights Council as part of its review of its own operations in 2011.

Some critics, in the United States and elsewhere, also have challenged our practice of reviewing every other country's human rights record but not our own. In fact, the U.S. Government reports on and assesses our own human rights record in many other fora pursuant to our treaty obligations (e.g., we file reports on our implementation of the two Optional Protocols to the Convention on the Rights of the Child, the International Covenant on Civil and Political Rights, the International Covenant on the Elimination of Racial Discrimination, and the Convention Against Torture). We are reviewing our reporting, consistent with President Obama and Secretary Clinton's pledge that we will apply a single universal human rights standard to all, including ourselves. Later this year, the U.S. Trafficking in Persons Report, for the first time, will rank the United States as it does foreign governments by applying the minimum standards for the elimination of trafficking in persons set forth in the Trafficking Victims Protection Act of 2000 as amended. And in the fall the U.S. Government will appear before the United Nations Human Rights Council for the first Universal Periodic Review of our domestic human rights situation.

These country reports are written to provide an accurate, factual record of human rights conditions around the world, not to examine U.S. policy responses or options or to assess diplomatic alternatives. Yet in a broader sense these reports are a part of the Obama Administration's overall approach to human rights and an

essential component of that effort. As outlined above, the administration's approach, as articulated by President Obama and Secretary Clinton, is guided by broad principles, the first of which is a commitment to universal human rights. In preparing this report, we have endeavored to hold all governments accountable to uphold universal human rights in the Universal Declaration of Human Rights and to their human rights treaty obligations. As Secretary Clinton stated in December, all governments, including our own, must "adhere to obligations under international law: among them not to torture, arbitrarily detain and persecute dissenters, or engage in political killings. Our government and the international community must consider the pretensions of those who deny or abdicate their responsibilities and hold violators to account." The first step in that process is to tell the truth and to identify specific instances where such violations are occurring and where governments are failing to take responsibility for holding violators accountable.

A second element of our approach is a principled and pragmatic engagement with other countries on these issues. This means that we will pursue steps that are most likely to make human rights a human reality. This principled pragmatism starts with an honest assessment of human rights conditions and whether violations are the result of deliberate government repression, governmental unwillingness or inability to confront the problems, or a combination of all three. As Secretary Clinton has said, "With China, Russia, and others, we are engaging on issues of mutual interest while also engaging societal actors in the same countries who are working to advance human rights and democracy. The assumption that we must either pursue human rights or our 'national interests' is wrong. The assumption that only coercion and isolation are effective tools for advancing democratic change is also wrong." These reports provide an essential, factual predicate upon which we can shape current and future policies.

A third element is our belief that although foreign governments and global civil society cannot impose change from outside, we can and should encourage and provide support to members of local civil society and other peaceful change agents within each country. As part of such efforts, these reports can and often do amplify these voices, by making reference to their findings, publicly reinforcing their concerns, and by widely disseminating this information to opinion makers, both internationally and within affected countries.

A fourth element of our approach is to keep a wide focus where rights are at stake and to adopt a broad approach to democracy and human rights. As Secretary Clinton stated, "Democracy means not only elections to choose leaders, but also active citizens and a free press and an independent judiciary and transparent and responsive institutions that are accountable to all citizens and protect their rights equally and fairly." President Obama has also highlighted the crucial linkages between development, democracy, and human rights, noting the centrality of issues such as corruption to the realization of basic rights. Consistent with that approach, these reports cover a wide range of topics and trends, providing a detailed and comprehensive picture of human rights and democracy in each country.

The fifth and final element of our approach has been to pursue progress on these issues through multilateral processes and institutions. As President Obama has acknowledged, we live in an increasingly interdependent and multipolar world, and to achieve our international goals, we need to collaborate with other governments and international actors. That is the reason we have joined the UN Human Rights Council, have actively supported human rights initiatives in the General Assembly, and have more thoroughly engaged in regional bodies like the Organization of American States and the Organization for Security and Cooperation in Europe in promoting democracy and human rights.

In preparing these reports, we relied on information collected by officials in U.S. embassies around the world and on information from other governments and multilateral organizations. We also solicited and relied on useful information from nongovernmental human rights groups, both those operating internationally and those that work at a national level. We also collected information from academics, lawyers, trade unions, religious leaders, and the media. While we benefited from these many inputs, the U.S. Government alone bears responsibility for the content of these reports. The preparation of these reports involves a major commitment of time and energy by hundreds of people, and includes a lengthy process of fact-checking and editing to ensure high standards of accuracy and objectivity.

THE YEAR IN REVIEW

In 2009, governments across the globe continued to commit serious violations of human rights. As we survey the world, there still are an alarming number of reports of torture, extrajudicial killings, and other violations of universal human rights. Often these violations relating to the integrity of the person are in countries where conflicts are occurring. These violent attacks are a central concern wherever they take place.

In a significant number of countries, governments have imposed new and often draconian restrictions on NGOs. Since 2008, no fewer than 25 governments have imposed new restrictions on the ability of these organizations to register, to operate freely, or to receive foreign funding, adversely impacting freedom of association. In many countries, human rights defenders are singled out for particularly harsh treatment, and in the most egregious cases, they are imprisoned or even attacked or killed in reaction to their advocacy.

These restrictions and repressive measures are part of a larger pattern of governmental efforts to control dissenting or critical voices. This pattern also extends to the media and to new forms of electronic communications through the Internet and other new technologies. Restrictions on freedom of expression, including on members of the media, are increasing and becoming more severe. In many cases, such restrictions are applied subtly by autocrats aiming to avoid attention from human rights groups and donor countries, such as through the threat of criminal penalties and administrative or economic obstacles, rather than through violence or imprisonment; the end result is still a chilling effect on freedom of expression.

A third trend we observed is the continuing and escalating discrimination and persecution of members of vulnerable groups—often racial, religious, or ethnic minorities, but also women, members of indigenous communities, children, persons with disabilities, and other vulnerable groups that lack the political power in their societies to defend their own interests.

These key trends are discussed in the subsequent sections, illustrated by thumbnail sketches of selected countries (ordered alphabetically) that were chosen for notable developments—positive, negative, or mixed—chronicled during calendar year 2009. For more comprehensive, detailed information, the individual country reports themselves should be consulted.

SPECIFIC HUMAN RIGHTS TRENDS

HUMAN RIGHTS ABUSES IN COUNTRIES IN CONFLICT

In many countries where conflicts were raging during the year, noncombatant civilians faced human rights abuses and violations of international humanitarian law. In many of these conflict zones, insurgents, terrorist organizations, paramilitary forces, and government security forces used murder, rape, and inhumane tactics to assert control over territory, silence opponents, and coerce the cooperation of civilian communities in conflict zones. Throughout the world, thousands of men, women, and children died or were mistreated not only in conflicts, but also in campaigns to intimidate civilian populations.

The security situation in Afghanistan deteriorated significantly because of increased insurgent attacks, with civilians bearing the brunt of the violence. Armed conflict spread to almost one-third of the country, hindering the government's ability to govern effectively, extend its influence, and provide services, especially in rural areas. As a result of the insurgency, 1,448 Afghan military personnel, 1,954 government employees, and 2,412 civilians were killed. Approximately five million of the 15 million registered voters participated in the August elections that were marked by serious allegations of widespread fraud, insufficient conditions for participation by women, and a concerted effort by the Taliban to disrupt the voting. Nevertheless, more polling stations opened than in previous elections, the media and public debated political alternatives, and the election followed the constitutional process.

The government in Burma continued its egregious human rights violations and abuses during the year, including increased military attacks in ethnic minority regions, such as in the Karen and Shan state. In August, government soldiers attacked the Kokang cease-fire group, the Myanmar National Democratic Alliance Army, which the government claimed was launched in order to shut down narcotics and arms factories. Tens of thousands of civilians reportedly fled across the border to China as a result of the fighting. Government soldiers destroyed several villages in Shan territory, and some media estimates suggested the army razed up to 500 homes in Kokang territory. The regime continued to rule by decree and was not bound by any constitutional provisions guaranteeing any fundamental freedoms. The regime continued to commit other serious abuses, including extrajudicial killings, custodial deaths, dis-

appearances, rape, torture, forcible relocation of persons, the use of forced labor, and conscription of child soldiers. The government detained civic activists indefinitely and without charges.

In the Democratic Republic of the Congo (DRC), conflict in mineral-rich parts of the east, including counterinsurgency operations by government security forces, resulted in the killing of more than 1,000 civilians; the displacement of hundreds of thousands whose government did not adequately protect or assist them; the rapes of tens of thousands of women, children, and men; the burning of hundreds of homes; the unlawful recruitment or use of thousands of children as soldiers by the DRC military and various armed groups; and abductions of numerous persons for forced labor and sexual exploitation, both domestically and internationally.

Despite substantial improvements in the general security situation in Iraq, human rights abuses continued. There were reports that the government or its agents committed arbitrary or unlawful killings in connection with the ongoing conflict, and insurgent and terrorist bombings, executions, and killings continued to affect all regions and sectors of society. Due to the continuing conflict, violence against the media was common, and media workers reported that they engaged in self-censorship. Although the government publicly called for tolerance and acceptance for all religious minorities and took steps to increase security at places of worship, frequent attacks by insurgent and extremist groups on places of worship and religious leaders, as well as sectarian violence, hampered the ability of individuals to practice their religion freely.

In response to a sharp increase in the number and frequency of rocket attacks from Gaza against civilians in Israel shortly prior to and following the expiration of Hamas's agreed period of "calm" on December 19, 2008, the Israeli Defense Forces launched Operation Cast Lead on December 27, which consisted initially of airstrikes targeted against Hamas security installations, personnel, and other facilities in the Gaza Strip, and later ground operations. Hostilities between Israeli forces and Hamas fighters continued through January 18, and the Israeli withdrawal of troops was completed on January 21. Human rights organizations estimated that close to 1,400 Palestinians died, including more than 1,000 civilians, and that more than 5,000 were wounded. According to Israeli government figures, Palestinian deaths totaled 1,166, including 295 noncombatant deaths. There were 13 Israelis killed, including three civilians. In the West Bank, the Israel Defense Forces relaxed restrictions at several checkpoints during the year that had constituted significant barriers to the movement of Palestinians, yet remaining barriers limited Palestinian access to places of worship, employment, agricultural lands, schools, hospitals, and the conduct of journalism and NGO activities. In Gaza, which remained under the control of Hamas, there were reports of corruption, abuse of prisoners, and failure to provide fair trials to those accused. Hamas also strictly restricted the freedom of expression, religion, and movement of Gaza residents, and promoted gender discrimination against women. Killings by Hamas-controlled security forces remained a problem. There were reports of torture by Gaza Hamas Executive Force and victims were not only security detainees but also included persons associated with the Fatah political party and those

held on suspicion of “collaboration” with Israel. Hamas authorities in Gaza often interfered arbitrarily with personal privacy, family, and home.

National police, army, and other security forces in Nigeria committed extrajudicial killings and used lethal and excessive force to apprehend criminals and suspects. Violence in the form of killings, kidnappings, and forced disappearances; mass rape; and displacement of civilians attributed to both government and nongovernment actors continued in the Niger Delta, despite the formation of the Joint Task Force in 2003 that sought to restore stability to the region. Reports of incidents attributed to militant groups in the Niger Delta decreased upon the president’s offer of amnesty, although violence remained pervasive in the south. Between July 26 and July 29, police and militant members of Boko Haram, an extremist Islamic group, clashed violently in four northern states, resulting in the displacement of approximately 4,000 people and more than 700 deaths, although this figure is not definitive because quick burials in mass graves precluded an accurate count. Sect leader Muhammad Yusuf; Yusuf’s father-in-law, Baba Mohammed; and suspected Boko Haram founder Buji Fai reportedly were killed while in custody of the security forces.

Although Pakistan’s civilian authorities took some positive steps, significant human rights challenges remain. Major problems included extrajudicial killings, torture, and disappearances. Militant attacks in the Federally Administered Tribal Areas (FATA) and the North West Frontier Province (NWFP) killed 825 civilians; security operations to repel the militants from Malakand Division and parts of the FATA displaced almost three million persons at the peak of the crisis (although by year’s end, approximately 1.66 million had returned to their home areas). The Human Rights Commission of Pakistan, the New York Times, and several local publications reported that security forces allegedly committed 300 to 400 extrajudicial killings during counterinsurgency operations in NWFP and Swat. There were widespread accusations that insurgents conducted terror- and revenge killings to intimidate local populations and law enforcement officials. Sectarian violence killed approximately 1,125 persons, and more than 76 suicide bombings killed 1,037 persons.

The situation in the North Caucasus region of Russia worsened as the government fought insurgents, Islamist militants, and criminal forces. Local government and insurgent forces in the region reportedly engaged in killings, torture, abuse, violence, politically motivated abductions, and other brutal or humiliating treatment. In Chechnya, Ingushetia, and Dagestan, the number of extrajudicial killings increased markedly, as did the number of attacks on law enforcement personnel (in actions involving insurgents, 342 members of law enforcement were killed and 680 were injured.) Some authorities in the North Caucasus acted with impunity and appeared to act independently of the federal government, in some cases, allegedly targeting families of suspected insurgents for reprisal and engaging in kidnapping, torture, and extrajudicial punishment.

Before the 33-year conflict in Sri Lanka came to an end in May, government security forces, progovernment paramilitary groups,

and the Liberation Tigers of Tamil Eelam (LTTE) used excessive force and committed abuses against civilians. Several hundred thousand ethnic Tamil civilians were not allowed freedom of movement by the LTTE from LTTE-controlled areas. Artillery shelling and mortar fire by both sides occurred close to and among civilian encampments, resulting in thousands of civilian deaths during the last months of the conflict. From January to May, the LTTE dramatically increased its forced recruitment of child soldiers. Although the number of children recruited and killed in fighting is unknown, the government reported 527 ex-LTTE child soldiers in custody several months after the end of the war. The confinement in camps of nearly 300,000 persons displaced by the end of the conflict called into question the government's postconflict commitment to human rights, although the government began to make significant progress on the treatment of internally displaced persons and other human rights improvements toward the end of 2009, in the run up to the January 2010 presidential election.

Conflict and human rights abuses in the Darfur region of Sudan continued despite the 2006 Darfur Peace Agreement between the government and a faction of the Sudan Liberation Movement/Army. Government-sponsored forces bombed villages, killed civilians, and supported Chadian rebel groups. Women and children continued to experience gender-based violence. Since the conflict in Darfur began in 2003, nearly 2.7 million civilians have been internally displaced, approximately 253,000 have sought refuge in eastern Chad, and more than 300,000 have died. Tensions also persisted between the north and south over the 2005 Comprehensive Peace Agreement. Interethnic conflict and violence perpetrated by the Lord's Resistance Army in southern Sudan resulted in the deaths of approximately 2,500 and the displacement of 359,000 persons during the year.

RESTRICTIONS ON FREEDOM OF EXPRESSION, ASSEMBLY, AND ASSOCIATION (INCLUDING NGOS)

Many governments continued to exert control over information that came into and was produced within their countries. This was accomplished by hindering the ability to organize in public, online, or through use of new technologies; by restricting the dissemination of information on the Internet, radio, or television or through print media; and constructing legal barriers that made it difficult for NGOs to establish themselves. According to the National Endowment for Democracy, 26 laws in 25 countries have been introduced or adopted since January 2008 that impede civil society.

In Belarus, the government's human rights record remained very poor. Civil liberties, including freedoms of expression, assembly, association, and religion, continued to be restricted. The government limited distribution of independent print and broadcast media outlets. Authorities used unreasonable force and intimidation to discourage participation in demonstrations and to disperse peaceful protesters. NGOs, opposition activists, and political parties were subjected to persistent harassment, fines, and prosecution, and several leading NGOs were again denied registration, forcing them to operate under threat of criminal prosecution. Following a few posi-

tive steps taken by authorities in 2008, the absence of reform during 2009 was disappointing.

The government of China increased its efforts to monitor Internet use, control content, restrict information, block access to foreign and domestic Web sites, encourage self-censorship, and punish those who violated regulations. The government employed thousands of persons at the national, provincial, and local levels to monitor electronic communications. In January the government began an “anti-vulgarity” campaign that resulted that same month in the closure of 1,250 Web sites and the deletion of more than 3.2 million items of information. The government at times blocked access to selected sites operated by major foreign news outlets, health organizations, foreign governments, educational institutions, and social networking sites, as well as search engines, that allow rapid communication or organization of users. During the year, particularly around sensitive events such as the 20th anniversary of the Tiananmen crackdown, authorities maintained tight control over Internet news and information. The government also automatically censored e-mail and Web chats based on an ever-changing list of sensitive key words. Despite official monitoring and censorship, dissidents and political activists continued to use the Internet to advocate and call attention to political causes such as prisoner advocacy, political reform, ethnic discrimination, corruption, and foreign policy concerns.

Independent media in Colombia were active and expressed a wide variety of views without restriction, and all privately owned radio and television stations broadcast freely. However, members of illegal armed groups intimidated, threatened, kidnapped, or killed journalists, which, according to national and international NGOs, caused many to practice self-censorship and others, 171 to be specific, received protection from the government. The official Administrative Department of Security monitored journalists, trade unionists, the political opposition, and human rights organizations and activists—physically, as well as their phone and email communications and personal and financial data. According to some NGOs, the government allegedly detained arbitrarily hundreds of persons, particularly social leaders, labor activists, and human rights defenders (HRDs), although a key NGO reported that such detentions in 2009 were half the 2008 level. HRDs were also persecuted and accused of supporting terrorism in an effort to discredit their work. Prominent NGOs reported that eight human rights activists and 39 trade unionists were killed during the year. However, the government also worked to protect thousands of union members, human rights activists, and other such groups.

Authorities in Cuba interfered with privacy and engaged in pervasive monitoring of private communications. There was no ability to change the government. There were also severe limitations on freedom of expression and no authorized press apart from official media; denial of peaceful assembly and association; restrictions on freedom of religion; and refusal to recognize domestic human rights groups or independent journalists or to permit them to function legally. The law allows for punishment of any unauthorized assembly of more than three persons, including those for private religious services in private homes. The law also provides for imprisonment

for vaguely defined crimes such as “dangerousness” and “peaceful sedition.” The government did not grant permission to any antigovernment demonstrators or approve any public meeting by a human rights group. Authorities held numerous opposition leaders pursuant to sentences ranging up to 25 years for peaceful political activities and detained activists for short periods to prevent them from attending meetings, demonstrations, or ceremonies. Although unauthorized, the organization Damas de Blanco (Ladies in White) generally was allowed to assemble and walk to church each Sunday demanding freedom for their imprisoned family members. However, the organization reported that its activities beyond the traditional weekly marches to church were disrupted on several occasions during the year. In addition, a prominent blogger and her colleague were detained and beaten while en route to a peaceful protest. Human rights activists also reported frequent government monitoring and disruption of cell phone and landline services prior to planned events or key anniversaries related to human rights. Authorities have never approved the establishment of a human rights group; however, a number of professional associations operated as NGOs without legal recognition.

The government’s poor human rights record degenerated during the year, particularly after the disputed June presidential elections. Freedom of expression and association and lack of due process continued to be problems within Iran, and the government severely limited individuals’ right to change their government peacefully through free and fair elections. Following the June 13 announcement of President Ahmadi-Nejad’s reelection, hundreds of thousands of citizens took to the streets to protest. Police and the paramilitary Basij violently suppressed demonstrations. The official death count was 37, although opposition groups report the number may have reached 70. By August, authorities had detained at least 4,000 individuals, and arrests continued throughout the year. A massive show trial involving many of the more prominent detainees was undertaken in September. On June 20, according to eyewitnesses, Basij militia killed Neda Agha-Soltan in Tehran. The video of her death appeared on YouTube and became a symbol of the opposition movement. Ahead of the June presidential election, on the actual day of election, and during the December 27 Ashura protests, when authorities detained 1,000 individuals and at least eight persons were killed in street clashes, the government blocked access to Facebook, Twitter, and other social networking sites. After the June election, there was a major drop in bandwidth, which experts posited the government caused to prevent activists involved in the protests from accessing the Internet and uploading large video files. The government continued to restrict freedom of religion severely, particularly against Baha’is and, increasingly, Christians.

The government of North Korea continued to subject citizens to rigid controls over many aspects of their lives, specifically denying citizens freedoms of expression, assembly, and association. Reports by defectors and NGOs of extrajudicial killings, disappearances, and arbitrary detention, including of political prisoners, continued to paint a grim picture of life there. The government sought to control virtually all information: there were no independent media,

Internet access was limited to high-ranking officials and other elites, and academic freedom was repressed. Domestic media censorship continued to be strictly enforced and no deviation from the official government line was tolerated. Similarly, the government prohibited all but the political elite from listening to foreign media broadcasts, and violators were subject to severe punishment. There was no genuine freedom of religion. Reports continued that religious believers, their families, and even their descendents were imprisoned, tortured, or simply relegated to a lower status. Indocination was carried out systematically through the mass media, schools, and worker and neighborhood associations and continued to involve mass marches, rallies, and staged performances, sometimes including hundreds of thousands of persons.

Government actions weakened freedom of expression and media independence within Russia by directing the editorial policies of government-owned media outlets, pressuring major independent outlets to abstain from critical coverage, and harassing and intimidating some journalists into practicing self-censorship. During the year, unknown persons killed a number of human rights activists and eight journalists, including prominent journalist and human rights activist Natalia Estemirova, who spent more than 10 years documenting cases of killings, torture, and disappearances that she linked to the Chechen authorities. President Medvedev stated it was “obvious” that the killings were connected to Estemirova’s work and ordered an immediate investigation to find the perpetrators, but there have been no arrests or prosecutions in this case. The government increasingly attempted to restrict media freedom to cover sensitive issues such as the conduct of federal forces in Chechnya, human rights abuses, and criticism of some government leaders. Likewise, many observers noted a selective pattern of officials encouraging government-friendly rallies while attempting to prevent politically sensitive demonstrations. The government also attempted to restrict the activities of some NGOs, making it difficult for some to continue operations. Upon hearing criticism of the 2006 NGO law at a meeting with the Presidential Council on Human Rights, President Medvedev called existing regulations a “burden” and announced that some regulations would be eased. None of the amendments to the law applied to foreign NGOs.

Government officials in Venezuela, including the president, used government-controlled media outlets to accuse private media owners and reporters of fomenting antigovernment destabilization campaigns and coup attempts. Senior federal and state government leaders also actively harassed privately owned and opposition-oriented television stations, media outlets, and journalists throughout the year, using administrative sanctions, fines, and threats of closure to prevent or respond to any perceived criticism of the government. The government’s harassment of Globovision, the largest private television network, included raiding the home of the company’s president and publicly calling for the company’s closure. At year’s end, 32 radio stations and two television stations had been closed, and 29 other radio stations remained under threat of closure. One domestic media watchdog reported that 191 journalists either were attacked or had their individual rights violated during the year. NGOs expressed concern over official political discrimina-

tion against, and the firing of, state employees whose views differed from those of the government. Private groups also alleged that the government was pursuing 45 persons as “political objectives” using various legal and administrative means. The Organization of American States’s Inter-American Commission on Human Rights recently noted “a troubling trend of punishments, intimidation, and attacks on individuals in reprisal for expressing their dissent with official policy.”

The human rights record of the government of Vietnam remained problematic. The government increased its suppression of dissent, arresting and convicting several political activists. Several editors and reporters from prominent newspapers were fired for reporting on official corruption and outside blogging on political topics. Bloggers were detained and arrested under vague national security provisions for criticizing the government and were prohibited from posting material the government saw as sensitive or critical. The government also monitored e-mail and regulated or suppressed Internet content, such as Facebook and other Web sites operated by overseas Vietnamese political groups. The government utilized or tolerated the use of force to resolve disputes with a Buddhist order in Lam Dong and Catholic groups with unresolved property claims. Workers were not free to organize independent unions, and independent labor activists faced arrest and harassment.

The government of Uzbekistan tightly controlled the media and did not permit the publication of views critical of the government. Government security officials regularly gave publishers articles and letters to publish under fictitious bylines, as well as explicit instructions about the types of stories permitted for publication. In July, a court convicted independent journalist Dilmurod Sayid to 12 and one-half years in prison on charges of extortion and bribery soon after he published articles regarding the corruption of local government officials. The government requires all NGOs and religious organizations to register in order to operate, and the activities of international human rights NGOs are severely restricted because the government suspects them of participating in an international “information war” against the country. Any religious service conducted by an unregistered religious organization is illegal, and police frequently broke up the meetings of unregistered groups, generally held in private homes. Reportedly, in some regions, universities and schools closed to send students to work in cotton fields; students who refused were expelled or threatened with expulsion.

DISCRIMINATION AND HARASSMENT OF VULNERABLE GROUPS

Members of vulnerable groups—racial, ethnic and religious minorities; the disabled; women and children; migrant workers; and lesbian, gay, bisexual, and transgender individuals—often were marginalized and targets of societal and/or government-sanctioned abuse.

China continued to exert tight control over activities and peoples that the government perceived as a threat to the Chinese Communist Party. For example, public interest lawyers who took on cases deemed sensitive by the government increasingly were harassed or disbarred, and their law firms often were closed. The gov-

ernment also increased repression of Tibetans and Uighurs. The government tightened controls on Uighurs expressing peaceful dissent and on independent Muslim religious leaders, often citing counterterrorism as the reason for taking action. Following the July riots that broke out in Urumqi, the provincial capital of XUAR, officials cracked down on religious extremism, “splittism,” and terrorism in an attempt to maintain public order. In the aftermath of the violence, Uighurs were sentenced to long prison terms and in some cases were executed, without due process, on charges of separatism. At year’s end, Urumqi remained under a heavy police presence and most Internet and international phone communication remained cut off. In the Tibetan areas of China, the government’s human rights record remained poor as authorities committed extrajudicial killings, torture, arbitrary arrests, and extrajudicial detentions. Authorities sentenced Tibetans for alleged support of Tibetan independence, regardless of whether their activities involved violence. The preservation and development of Tibet’s unique religious, cultural, and linguistic heritage also remained a concern.

The government of Egypt failed to respect the freedom of association and restricted freedom of expression, and its respect for freedom of religion remained very poor. Sectarian attacks on Coptic Christians mounted during the year. The government failed to redress laws and government practices that discriminate against Christians. The government sponsored “reconciliation sessions” following sectarian attacks, which generally prevented the prosecution of perpetrators of crimes against Copts and precluded their recourse to the judicial system for restitution. This practice contributed to a climate of impunity and may have encouraged further assaults. Members of non-Muslim religious minorities that the government officially recognized generally worshipped without harassment; however, Christians and members of the Baha’i faith, which the government does not recognize, faced personal and collective discrimination in many areas. In a step forward, the government promulgated procedures for members of unrecognized religions, including the Baha’i faith, to obtain national identification documents and reportedly issued 17 such documents and 70 birth certificates to Baha’i during the year.

As a growing number of people cross borders to find work, migrant workers have become particularly vulnerable to exploitation and discrimination. In Malaysia, foreign workers were subject to exploitative conditions and generally did not have access to the system of labor adjudication. However, the government investigated complaints of abuses, attempted to inform workers of their rights, encouraged workers to come forward with their complaints, and warned employers to end abuses. The law did not effectively prevent employers from holding employees’ passports, and it was common practice for employers to do so. Some domestic workers alleged that their employers subjected them to inhuman living conditions, withheld their salaries, confiscated their travel documents, and physically assaulted them.

Violence against women, violations of the rights of children, and discrimination on the basis of gender, religion, sect, and ethnicity were common in many countries in the Middle East region. In

Saudi Arabia, for example, Muslim religious practices that conflict with the government's interpretation of Sunni Islam are discriminated against and public religious expression by non-Muslims is prohibited. Human rights activists reported more progress in women's rights than in other areas, and the government made efforts to integrate women into mainstream society, for example, through the founding of the Kingdom's first coeducational university in September. However, discrimination against women was a significant problem, demonstrated by the lack of women's autonomy, freedom of movement, and economic independence; discriminatory practices surrounding divorce and child custody; the absence of a law criminalizing violence against women; and difficulties preventing women from escaping abusive environments. There are no laws specifically prohibiting domestic violence. Under the country's interpretation of Shari'a (Islamic law), rape is a punishable criminal offense with a wide range of penalties from flogging to execution. Statistics on incidents of rape were not available, but press reports and observers indicated rape against women and boys was a serious problem.

Lesbian, gay, bisexual, and transgender (LGBT) persons in Uganda faced arbitrary legal restrictions. It is illegal to engage in homosexual acts, based on a 1950 legal provision from the colonial era criminalizing "carnal acts against the order of nature" and prescribing a penalty of life imprisonment. No persons have been charged under the law. The September introduction in parliament of a bill providing the death penalty for "aggravated homosexuality" and for homosexual "serial offenders" resulted in increased harassment and intimidation of LGBT persons during the year; the proposed legislation also provides for a fine and three years' imprisonment for persons who fail to report acts of homosexual conduct to authorities within 24 hours. Public resentment of homosexual conduct sparked significant public debate during the year, and the government took a strong position against such conduct despite a December 2008 ruling by the High Court that constitutional rights apply to all persons, regardless of sexual orientation. The local NGO Sexual Minorities Uganda protested alleged police harassment of several members for their vocal stand against sexual discrimination.

Traditional and new forms of anti-Semitism continued to arise, and a spike in such activity followed the Gaza conflict in the winter of 2008-2009. Often despite official efforts to combat the problem, societal anti-Semitism persisted across Europe, South America, and beyond and manifested itself in classic forms (including physical attacks on Jewish individuals, synagogue bombings, cemetery desecrations; the theft of the "Arbeit Macht Frei" sign from the Auschwitz Death Camp; and accusations of blood libel, dual loyalty, and undue influence of Jews on government policy and media.) New forms of anti-Semitism took the form of criticism of Zionism or Israeli policy that crossed the line into demonizing all Jews, and, in some cases, translated into violence against Jewish individuals in general. Instead of combating anti-Semitism, some governments fueled it, most notably Iran's President Ahmadinejad. Anti-Semitic propaganda, including Holocaust denial, was circulated widely by satellite television, radio, and the Internet. A television show

in Egypt that was widely aired throughout the region did not deny the Holocaust, but instead glorified it, praising the slaughter and humiliation of Jews and calling for future Holocausts.

In several countries with generally strong records of respecting human rights, there were nevertheless some notable examples of members of vulnerable groups facing discrimination and harassment. Discrimination against Muslims in Europe has been an increasing concern. A recent case that received international attention was the passage on November 29 in Switzerland of a constitutional amendment banning the construction of minarets. A provision in the Swiss constitution enables direct citizen involvement. The amendment passed with 57.5 percent of the vote despite opposition from both parliament and the Federal Council and public statements by many of the country's leaders describing such a ban as contradicting basic values in the country's constitution and violating its international obligations. Proponents of the initiative to ban minarets contended the construction of minarets symbolized a religious and political claim to power.

In the wake of the economic downturn, there have been a number of killings and incidents of violence against Roma, including in Italy, Hungary, Romania, Slovakia, and the Czech Republic. Roma are the largest and most vulnerable minority in Europe; they suffer racial profiling, violence, and discrimination. There were also reports of mistreatment of Romani suspects by police officers during arrest and while in custody. Roma faced high levels of poverty, unemployment, and illiteracy, as well as widespread discrimination in education, employment, and housing.

AFRICA

ANGOLA

Angola is a constitutional republic with an estimated population of 16 million. The ruling Popular Movement for the Liberation of Angola (MPLA), led by President Jose Eduardo dos Santos since 1979, has been in power since independence in 1975 and exercised tight, centralized control over government planning, policy making, and media outlets. In September 2008 the government held the first legislative elections since 1992. Domestic and international observers reported that polling throughout the country was peaceful and generally credible, despite a ruling party advantage due to state control of major media and other resources, and serious logistical failures that marred polling in the capital of Luanda. Civilian authorities generally maintained effective control of the security forces.

The government's human rights record remained poor, and there were numerous, serious problems. Human rights abuses included the abridgement of citizens' right to elect officials at all levels; unlawful killings by police, military, and private security forces; torture, beatings, and rape by security forces; harsh prison conditions; arbitrary arrest and detention; official corruption and impunity; judicial inefficiency and lack of independence; lengthy pretrial detention; lack of due process; restrictions on freedom of speech, press, assembly, and association; forced evictions without compensation; and discrimination, violence, and abuse perpetrated against women and children.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed politically motivated killings; however, human rights activists and domestic media sources reported that security forces arbitrarily killed two persons during the year. In 2008 security forces arbitrarily killed 23 persons.

Impunity remained a problem, although the government prosecuted some human rights violators. Results of investigations into security force abuses were seldom released.

Domestic media and local human rights activists reported that police use of excessive force resulted in killings.

On September 12, police in Luanda tortured a male citizen charged with selling drugs. While he was under arrest, police denied him medical assistance. He later died in prison due to serious contusions and abuse. The provincial commander of police requested an investigation; however, there were no updates by year's end.

On September 22, police arrested a male citizen in Porto Amboim for a public argument and tortured him. He later died due to serious contusions and cuts. There was no investigation by year's end.

In 2008 there were multiple media reports in Luanda that police deliberately targeted and killed persons suspected of gang and other criminal activity.

In July 2008 five police officers shot and killed eight teenagers. While the officers claimed to be part of a special gang task force tasked with ridding neighborhoods of gang members, the national police denied the existence of the task force and relieved the police officers of duty. Prosecutors charged seven officers with murder, and they were undergoing trial at year's end.

Police continued to decline to prosecute several officers in connection with a 2007 police killing of two actors during filming of a movie in a high-crime area of Luanda. The national police stated they were unable to positively identify the officers allegedly involved in the killings.

In 2007 police shot and killed two vendors in an open-air market during a raid on vendors of pirated DVDs. The minister of interior and national police commander immediately suspended the officers in question and promised a swift investigation.

The government was still considering criminal charges against the accused police officers at year's end.

The Memorandum of Understanding for Peace and Reconciliation for Cabinda Province, signed in 2006, largely brought an end to the insurgency in the province, although sporadic attacks by dissident factions of the Front for the Liberation of the Enclave of Cabinda (FLEC) and counterinsurgency operations by the Armed Forces of Angola (FAA) continued during the year.

On March 31, FLEC claimed responsibility for an attack on three foreign-operated trucks in Cabinda, resulting in the death of a foreign national.

On April 20, FLEC claimed responsibility for an attack in Cabinda that killed five soldiers.

On April 28, FLEC claimed responsibility for an attack in Cabinda that killed eight soldiers.

On December 22, FLEC claimed responsibility for the killing of 15 soldiers during an attack in Miconje.

In 2007 there was one report of an unlawful killing in Cabinda that could be linked to FAA soldiers. The incident remained under investigation.

Unlike in the previous year, there were no reports of killings by private security companies in diamond concession areas.

Unlike in the previous year, there were no reports of vigilante violence.

Landmines placed during the long civil war continued to be a threat. According to the National Commission for Demining and Humanitarian Assistance, landmine and other explosive remnants of war (ERW) accidents killed eight and injured four during the year. The government continued to strengthen and expand national demining capacity during the year, and it partnered extensively with international nongovernmental organizations (NGOs) on demining operations and mine-risk education.

b. Disappearance.—There were no reports of politically motivated disappearances. However, there were media reports that persons taken into police or military custody disappeared. On May 15, the president of a local movement in Lunda-Norte, Jota Malakito, was taken into police custody and held incommunicado for six months. He was awaiting trial at year's end.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution and law prohibit such practices; however, government security forces tortured, beat, and otherwise abused persons. Reports of beatings and other abuses in police stations during interrogations were common. The media reported that on October 9, seven former police agents from the National Police force claimed that they were tortured while undergoing interrogation in prison.

In 2007 the UN Working Group on Arbitrary Detentions (UNWGAD) reported a number of detainees with visible signs of torture. Police and other security forces rarely were held accountable. Although the government punished some violators administratively, no prosecutions occurred during the year.

Abuses by the army continued. There were NGO and media reports of violence by security forces in Cabinda and Lunda Norte. In Cabinda, FAA troops illegally detained, beat, or threatened citizens suspected of FLEC collaboration during anti-insurgency operations, according to human rights NGOs.

On January 7, a local NGO reported that security forces arrested three citizens in Cabinda for crimes against the state and collaboration with FLEC. Security forces beat and tortured them with cigarette burns, prolonged sun exposure, heavy weights tied to their testicles, and flogging until they bled from their ears, noses, eyes, and mouths. There were no updates on the case by year's end.

On March 24, a lawyer reported that several civilians awaiting trial for alleged participation in a FLEC attack in Cabinda showed visible signs of torture.

On November 10, according to Human Rights Watch (HRW), approximately 60 soldiers arrived in the village of Sassa Zau Velho and severely beat two elderly men. The soldiers pillaged the men's houses and stole money. Villagers reported that the military commander of the northern region in Cabinda later apologized. He also reportedly stated that if victims could identify the perpetrators, the soldiers would be punished. However, the victims were unable to identify the soldiers, and the FAA neither restored the stolen goods nor paid damages to cover the medical and hospital bills.

The government continued to conduct operations throughout the country to identify, detain, and expel illegal immigrants, particularly in the diamond-rich provinces of Lunda Norte and Lunda Sul.

Between May and August police expelled approximately 30,000 illegal immigrants, most of them diamond workers in Lunda Norte and Lunda Sul. NGOs and the media reported acts of violence and degrading treatment associated with these

operations. Military and national police forces, collaborating to deport illegal Congolese diamond miners, arbitrarily beat and raped deportees. Deportees were forced to march to the Democratic Republic of Congo (DRC) border without food or water. Government security forces conducted immigration raids on settlements of illegal miners by employing harsh and intimidating tactics, such as firing weapons in the air, beating or raping resisters, and stealing their personal effects. During the expulsions in Lunda Norte, immigration officials detained suspected illegal Congolese in makeshift camps with poor living conditions for weeks and, in some cases, months at a time before deporting them.

The Ministry of Interior reported that 33,567 illegal immigrants were expelled during the year, compared with 69,183 in 2008. There were reports of violence and degrading treatment associated with these operations. In October local NGOs reported cases of extortion, theft, and physical violence against Congolese during mass expulsions of Angolans and Congolese from the DRC and Angola, respectively.

In 2007 the NGO Doctors Without Borders (MSF) reported that illegal Congolese immigrants detained in Lunda Norte were systematically raped. MSF also reported beatings, forced labor, withholding of food and water, and repeated body cavity searches without the use of gloves as the authorities moved immigrants to the DRC border for expulsion. Several children died from malnourishment and dehydration. Although the women said “soldiers” abused them, it remained unclear whether the abusers were FAA, national or border police, or armed and uniformed private security forces. The UN Children’s Fund (UNICEF) also reported allegations of excessive use of force by government security forces during expulsions, including the burning of houses, arbitrary arrests, sexual violence, extortion, and forced labor. Three Congolese workers reportedly died while in custody. The FAA had not commented publicly on the findings of its investigation by year’s end.

Reports of abuses by private security companies continued, especially in Lunda Norte and Lunda Sul. According to reports from human rights activists, private security contractors hired by diamond companies to protect their concessions from illegal exploitation were responsible for most of the violence.

Police and immigration officials at border checkpoints and provincial airports extorted money from travelers and harassed returnees and refugees.

Reports of rape and sexual abuse during arrest or detention occurred during the year. On May 29, a 15-year-old girl in Samba was sexually abused while detained at a municipal prison.

Landmine and other ERW-related deaths continued during the year, as infrastructure improvements made possible increased movement of persons and goods in rural, war-affected areas. In February, March, and May, a total of three persons were killed by landmines.

Prison and Detention Center Conditions.—Prison conditions were harsh and life threatening. NGOs reported that prison officials routinely beat and tortured detainees. In 2007 the UNWGD interviewed prisoners who showed visible signs of torture, starvation, and abuse. A local human rights NGO reported similar conditions while visiting prisons during the year.

Overcrowding and lack of medical care, sanitation, potable water, and food caused some prison deaths. It was customary for families to bring food to prisoners, but guards demanded bribes as a precondition for food delivery. Some prisoners died of disease, especially in provincial prisons. Prison conditions varied widely between urban and rural areas.

In March 2008 the National Criminal Investigation Department (DNIC) building collapsed, killing 31 inmates. All police escaped from the building prior to its collapse; however, prisoners were not freed from their holding cells.

Due to violent prison riots in 2007 that resulted in at least two prisoner deaths, the government worked to reduce overcrowding. However, the national prison system continued to hold more than five times the number of prisoners for which it was designed. Luanda’s Central Prison, built to house 600 prisoners, held 3,300 before the riots. By the end of 2007, the prison population there was reduced to approximately 1,000 prisoners. However, during a prison visit, a local human rights NGO noted the transfer of prisoners from Luanda to the provinces worsened overcrowding in the provincial prisons. A local human rights NGO reported an overcrowded prison in Lubango that held 690 prisoners in a facility built for 150. In addition, prisons in both Huambo and Viana were grossly overcrowded.

Chronically underpaid prison officials supported themselves by stealing from prisoners and extorting money from their family members. Prison guards continued to demand that prisoners pay for weekend passes to which they were entitled. There were continued reports of prison officials operating an informal bail system, releasing prisoners until their trial dates for a fee.

Female inmates informed the UNWGD that prison guards regularly raped them.

Authorities at provincial prisons regularly housed juveniles, often incarcerated for petty theft, together with adults, and subjected the children to abuse by guards and inmates; however, authorities in urban prisons often separated juveniles from the main prison population. Juvenile detention centers existed in Luanda but were severely overcrowded.

Authorities frequently held pretrial detainees with sentenced inmates and held short-term detainees with those serving long-term sentences for violent crimes, especially in provincial prisons.

The government permitted foreign diplomatic personnel and local and international human rights observers to visit prisons during the year. However, the government limited access to politically sensitive inmates. For example, during the year and in 2008, the government did not permit NGOs to visit the former secret service chief, Fernando Garcia Miala, who was serving a four-year sentence in a civilian penitentiary for a military charge of insubordination. Miala was released during the year.

In 2008 the government opened new or rehabilitated prisons in eight provinces.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, police legally can detain an individual under reasonable suspicion for six hours without evidence of a crime. Security forces often did not respect these prohibitions in practice.

On February 7, police arbitrarily detained two youths at police headquarters when they delivered an obituary notice about their cousin, a victim of a gang killing in Luanda. Police stated they detained the youths because of their potential participation in a rumored plan to break into gang members' houses. An investigation continued at year's end.

Local human rights NGOs reported that authorities detained family members of individuals wanted by the police.

During the year a local NGO reported that a total of 30 Cabindans were detained in eight separate instances for supposed crimes against the state.

Role of the Police and Security Apparatus.—The National Police, controlled by the Interior Ministry, are responsible for internal security and law enforcement. The Internal Intelligence Service reports to the Office of the Presidency and investigates sensitive state security matters. The FAA is responsible for external security but also has domestic security responsibilities, including border security, expulsion of illegal immigrants, and small-scale actions against dissident FLEC factions in Cabinda.

Other than personnel assigned to elite units, police were poorly paid, and the practice of supplementing income through extortion of civilians was widespread. Corruption and impunity remained serious problems. Most complaints were handled within the National Police by internal disciplinary procedures, which sometimes led to formal punishment, including dismissal. However, the government did not establish mechanisms to expedite investigations and punish alleged offenders, and it rarely disclosed publicly the results of internal investigations.

The government's closure of the UN Human Rights Office (UNHRO) in May 2008 hampered the Ministry of Interior's efforts to train police and army recruits. However, police participated in professional training with foreign law enforcement officials from several countries in the region. In October police forces participated in training to prevent trafficking in persons and to provide security for the upcoming African Cup of Nations.

Arrest Procedures and Treatment While in Detention.—Prior to an arrest, the law requires a judge or magistrate to issue a warrant, although a person caught committing a crime may be arrested immediately without a warrant; however, security forces did not always procure arrest warrants before detaining persons. The constitution provides the right to prompt judicial determination of the detention's legality, but authorities often did not respect this right in practice.

The law mandates that detainees be informed of charges against them within five days, or the prosecutor may permit the suspect to return home and provide a warrant of surveillance to local police. This generally occurred in practice.

If the crime is a misdemeanor, the suspect may be detained for 30 days before trial. If the crime is a felony, the prosecutor may prolong pretrial detention up to 45 days. In practice authorities regularly exceeded these limits.

A functioning but ineffective bail system, widely used for minor crimes, existed. Prisoners and their families reported that prison officials demanded bribes to release prisoners.

Police often extorted bribes. Police did not obtain warrants before conducting searches for illegal vendors and making sweeps of public markets.

Unlawful arrest and detention continued to be serious problems. NGOs continued efforts to secure the release of illegally detained persons. During the year NGOs reported more than 500 cases of illegal detentions. In 2008 citizens reported to NGOs 700 cases of illegal detention; NGOs reported receiving petitions daily from relatives of illegally detained persons seeking pro bono legal assistance. NGOs also reported that police often detained citizens without charge or denied them access to a judge for extended periods and then released them.

In mining provinces such as Lunda Norte, Lunda Sul, and Bie, international organizations reported that government security forces detained illegal immigrants and their families in transit centers, where the security forces subjected them to systematic rape, body cavity searches, and deprivation of food and water.

Security officials arbitrarily arrested members of the opposition. For example, in August 2008 security forces arrested 13 members of the Party for Democratic Support and Progress of Angola opposition party for distributing pamphlets on behalf of another opposition party. The Luanda Provincial Court dismissed the case as the prosecutor found the charges erroneous.

Cabinda residents continued to report that security forces detained persons suspected of FLEC activity or collaboration. In 2008 NGOs reported that security forces held civilians incommunicado and denied the UNWGA and International Committee of the Red Cross (ICRC) permission to visit them.

The law mandates access to legal counsel for detainees and states that indigent detainees should be provided a lawyer by the state. These rights often were not respected, in part due to the shortage of legal professionals. The law also allows family members prompt access to detainees; however, this occasionally was ignored or made conditional upon payment of a bribe.

Excessively long pretrial detention continued to be a serious problem. An inadequate number of judges and poor communication among authorities contributed to it. Police often beat and then released detainees rather than prepare a formal court case. In some cases, authorities held inmates in the prison system for up to two years before their trials began. In 2008 an NGO estimated that more than 50 percent of inmates were pretrial detainees, most of whom had not been formally charged. The government did not release detainees who had been held beyond the legal time limit, claiming previous releases of pretrial detainees resulted in an increase in crime.

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary; however, the judiciary remained understaffed, inefficient, corrupt, and subject to executive and political influence (see section 4).

The Supreme Court heads the formal justice system and administers the 18 provincial courts as well as a limited number of municipal courts. The president appoints Supreme Court justices for life terms without confirmation by the parliament. The Supreme Court generally heard cases concerning alleged political and security crimes. The Ministry of Defense also tried civilians in military courts.

On August 20, the Supreme Court rescinded the 12-year sentence of former Voice of America (VOA) correspondent Fernando Lelo. The tribunal released him from prison after his conviction by a closed military tribunal in September 2008 for crimes against state security and instigating a rebellion.

In June 2008 the government created a seven-member constitutional court to provide judicial review of constitutional issues and supervise the electoral process. The president nominated three judges, parliament nominated three, and the Supreme Court nominated one, all to serve seven-year terms.

There were long trial delays at the Supreme Court level. Criminal courts also had a large backlog of cases that resulted in major delays in hearings.

Informal courts remained the principal institutions through which citizens resolved conflicts in rural areas. Traditional leaders (sobas) also heard and decided local cases. These informal systems did not provide citizens with the same rights to a fair trial as the formal legal system; instead, each community in which they were located established local rules.

As most municipalities did not have prosecutors or judges, local police often served as investigator, prosecutor, and judge. Both the National Police and the FAA have internal court systems that generally remained closed to outside scrutiny. Although members of these organizations can be tried under their internal regulations, cases that include violations of criminal or civil laws can also fall under the jurisdiction of provincial courts.

Trial Procedures.—The law provides for the right to a fair trial; however, the government did not always respect this right. Suspects must be in the presence of a judge and defense attorney when charged. Defendants are presumed innocent until convicted. By law trials are usually public, although each court has the right to

close proceedings. Juries are not used. Defendants have the right to be present and to consult with an attorney in a timely manner. The law requires that an attorney be provided at public expense if an indigent defendant faces serious criminal charges. Outside Luanda, the public defender was generally not a trained attorney due to shortages in qualified personnel. Defendants do not have the right to confront their accusers. They may question witnesses against them and present witnesses and evidence on their own behalf. The government did not always respect these rights in practice.

Defendants and their attorneys have the right to access government-held evidence relevant to their cases. In addition, defendants have the right to appeal. Lawyers and prosecutors can appeal if the sentence is unsatisfactory, but only a higher court can modify the sentence. However, the government did not always respect these rights in practice.

The law extends to all citizens, and a separate court, under the Ministry of Justice, is designated for children's affairs. It functions as part of Luanda's provincial court system. Minors are considered adults at 18 but leave the juvenile court system at 16; between 16 and 18, they are tried and imprisoned with adults but are subject to lighter sentencing. Minors bear the responsibility of proving their age; however, in many rural provinces, courts tried as adults those minors without identification papers.

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

Civil Judicial Procedures and Remedies.—Although the law provides for an independent and impartial judiciary in civil matters, the judiciary was subject to political interference. Civil courts functioned in some provinces but faced severe backlogs. During the year Luanda's civil courts had more than 2,000 pending civil suits. The Ministry of Justice continued work with national and international partners to improve court-clerk training and technical capacity in provincial and municipal civil courts. Damages for human rights violations could be sought in court, but no cases were tried during the year.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and law prohibit such actions, but the government did not always respect these prohibitions in practice.

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

The government continued to demolish informal squatter housing in Luanda and to forcibly relocate residents in large provincial cities such as Lobito.

In February Lobito and Benguela local administrations demolished six slums, housing 1,000 to 3,500 persons. Local NGOs reported a lack of legal due process and no compensation.

In March the government evicted and forcibly relocated approximately 400 residents in the neighborhood of Coreia in Luanda. Their houses were demolished.

In April the government evicted and forcibly relocated approximately 700 families from the Ilha neighborhood of Luanda without compensation, allegedly because their residences were at risk of damage by high seas. Residents protested with burnt tires and roadblocks, but police quickly quelled the protest.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution and law provide for freedom of speech and of the press; however, government regulations and minimal independent media outside of Luanda limited these rights in practice. For example, authorities cancelled live radio call-in shows in the weeks leading up to the September 2008 legislative elections. Human rights activists and journalists practiced self-censorship.

Individual citizens reported practicing self-censorship but were generally able to criticize the government without fear of direct reprisals. The government engaged in subtle repression and economic coercion, often in the form of withdrawing business or job opportunities, to discourage criticism.

There were 12 privately owned weekly newspapers and four Luanda-based commercial radio stations. The government permits state-owned Radio Nacional to broadcast nationally, but all other radio stations can only broadcast within the province where they are located. Radio Mais, whose ownership includes individuals associated with the ruling party, also broadcasts in Luanda, Huambo, and Benguela. Authorities did not allow independent stations to use repeaters to expand their signal reach; they were required by law to open radio stations in every province they wished to reach.

Independent radio and print media criticized the government openly and at times harshly. Unlike in previous years, local journalists were able to criticize government officials, particularly the president, without fear of arrest or harassment. However, the government restricted nationwide independent broadcasting through licensing laws.

In 2008 the state-run National Television of Angola (TPA) suspended a leading anchor of a prime-time news program without pay for four months for publicly declaring that censorship occurred at the TPA. The journalist was later reinstated.

In October 2008 three journalists from national state broadcaster Radio Nacional de Angola were suspended after they questioned President Jose dos Santos's choices for ministry leadership.

The government continued to give preferential treatment and access to state media organizations, including Angola Public Television, Radio Nacional, and the only national daily newspaper, *Jornal de Angola*. Government-owned press minimally covered the statements, issues, or activities of independent journalists, opposition leaders, and civil society organizations.

The 2006 press law ended the state monopoly on television, partially opened the FM bandwidth to independent broadcasters, and rescinded travel restrictions on journalists. Nonetheless, on March 26, a privately owned radio station began broadcasting in Huambo Province. A private television station, TV Zimbo, also began operating in 2008.

During the year authorities arrested, harassed, and intimidated journalists.

In May the DNIC investigated the publisher of the weekly newspaper *Folha 8*, William Tonet, for supposed crimes against the state; no trial was held by year's end. On May 9, authorities seized his passport when he attempted to visit Namibia. Police notified Tonet that he was on a list of persons forbidden to leave the country.

On December 13, FAA soldiers detained a local correspondent of VOA in Cabinda, Jose Manuel Gimbi, and an international Dow Jones Newswires reporter, Benoit Faucon, for taking photographs of the new stadium built in Cabinda for the upcoming Africa Cup of Nations. Both were questioned but released after several hours. Gimbi claimed to have received several domestic intelligence calls following his arrest.

In September 2008 the government accused former reporter Fernando Lelo of inciting treason and sentenced him to eight years' imprisonment for encouraging five soldiers to desert the FAA and join the FLEC guerrilla movement. On August 20, the Supreme Court rescinded his sentence and released him from prison.

In 2007 security forces imprisoned Graca Campos, director of a private weekly newspaper that frequently criticized the government. Campos, who was charged with defamation, was sentenced to eight months in prison—two months more than the maximum legal sentence—and fined an unprecedented 18.75 million kwanzas (\$208,000). Campos was tried in absentia, after he repeatedly did not heed summaries to appear in court, which he stated he never received. He was released and awaiting trial at year's end. He was also convicted in another case, dating back to 2001. Media and civil society groups strongly criticized the government's legal irregularities in the case; Campos appealed and the court declared a mistrial in 2007, granting him early release.

There were reports that security forces interfered with journalists' attempts to take pictures or video during the year. On May 10, a photographer in Cabinda was detained for taking pictures of the president without previous authorization. In 2008 the government refused to issue visas to a number of Portuguese journalists seeking to cover the electoral process. In addition, authorities prevented a foreign news crew from filming railroad construction in 2008.

Defamation is a crime punishable by imprisonment or fine. Accuracy is not an acceptable defense against defamation charges; the accused must provide evidence proving the validity of the allegedly damaging material.

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

Internet Freedom.—Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail; however, there were reports that the government monitored Internet chat rooms and Web sites and at times pressed for the removal of defamatory material from Web sites. Availability of Internet service and Internet cafes increased during the year, but the high cost of Internet service put it beyond the reach of most citizens.

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

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

The law requires written notification to the local administrator three days before public or private assemblies are to be held; however, the government at times prohibited events based on perceived or claimed security considerations. Participants potentially were liable for “offenses against the honor and consideration due to persons and to organs of sovereignty.” Applications for progovernment gatherings routinely were granted without delay; however, applications for demonstrations, protests, or opposition party assemblies frequently were denied, usually based on government claims that the timing or venue requested was problematic. At other times the government did not respond to the applicants, which then enabled local authorities to threaten demonstrators with arrest for holding an event without authorization.

In July police dispersed a crowd of protestors marching to protest the recent demolition of houses in the Luanda neighborhoods of Iraq and Baghdad.

On September 25, the government cancelled the celebration of Eid al Fitr organized by the Islamic Community of Angola, the only Muslim organization in Luanda, by flanking the entrance of the rented local stadium with soldiers.

During the 2008 electoral period, numerous opposition parties reported that local authorities denied requests to use buildings and public spaces for political party rallies. They also reported that the ruling MPLA reserved public spaces for the entire campaign period, which permitted party supporters to interrupt and disperse opposition party rallies in the space they had reserved. In August 2008 authorities in Namibe denied the opposition party National Union for the Total Independence of Angola (UNITA) access to space it had reserved and paid for, telling members that the MPLA had reserved the same space months prior. However, the ledger indicated that the space was available when UNITA reserved it.

In 2007 the municipal administrator denied the Forum of Political Women, a non-partisan group with membership from 13 political parties, permission to distribute literature on women’s political rights in a Luanda market. Following media pressure, the local government granted permission to use another market, and the group rescheduled the event. However, on the rescheduled date, the market administrator denied permission, stating municipal authorities had not notified him. While municipal authorities apologized for what they called a bureaucratic delay, the group decided not to reschedule again.

Freedom of Association.—The constitution and law provide for the right of association, and the government generally respected this right in practice. The government legally may deny registration to private associations on security grounds. Extensive and unexplained delays in the NGO registration process continued to be a problem. For example, five civil society associations (the Association for Justice, Peace, and Democracy (AJPD); Human Rights Coordination Council; SOS-Habitat; Maos Livres; and Omunga) constituted between 2000 and 2006 remained without certificates to operate from the Ministry of Justice at year’s end.

The government sometimes arbitrarily restricted associations it considered subversive by refusing to grant permits for organized activities. During the year opposition parties generally were permitted to organize and hold meetings; however, opposition officials continued to report minor obstructions to their free exercise of their parties’ right to meet.

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

Religious groups must register with the ministries of justice and culture and they must have at least 100,000 adherents to qualify for registration. During a visit in 2007, the UN special rapporteur on freedom of religion and belief noted that this provision discriminated against religious minorities. The Muslim community and many Christian groups were not recognized due to this provision and were therefore limited in their rights and activities. The government legally recognized 85 denominations; 800 other religious denominations had pending registration applications; the latter did not meet the membership requirement to receive legal status, but the government did not bar their activities.

Government officials issued statements opposing Muslim proselytizing and linking Muslims to sensitive national issues of illegal immigration, rising crime, and international terrorism. In March the head of the National Religious Affairs Institute, Maria de Fatima Republicano Viegas, said the government was concerned about Islam in the country and would investigate the activities of all mosques over concerns that Islamic practices go against cultural norms. The domestic intelligence service, charged with compiling a report on mosque activities, had begun conducting

these investigations. Republicanos described Islam as alien to the culture and traditions of the country and claimed it victimized women who married Muslim men.

The government continued its ban on 17 religious groups in Cabinda on charges of practicing harmful exorcism rituals on adults and children accused of witchcraft, illegally holding religious services in residences, and lack of official registration.

Societal Abuses and Discrimination.—The Muslim community suffered negative public attitudes throughout the country.

There is a Jewish community of approximately 350 persons, primarily Israelis. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/drl/irf/rpt.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation; however, the government at times restricted these rights in practice. The government cooperated with the UN High Commissioner for Refugees (UNHCR), the International Organization for Migration, and other humanitarian organizations in providing protection and assistance to internally displaced persons (IDPs), returning refugees, asylum seekers, and other persons of concern.

Extortion and harassment at government checkpoints in rural areas, and at provincial and international border checkpoints, interfered with the right to travel. Extortion by police was routine in cities on major commercial routes. The government and private security companies restricted access to designated diamond concessions. Citizens living near concession areas were regularly denied access for any purpose, including obtaining water.

NGOs reported that security forces often used excessive force in expelling illegal artisanal miners and their families. Landmines and other ERW remaining from the civil war continued to impede freedom of movement in rural areas.

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

Internally Displaced Persons.—A 2006 joint assessment by the government, the UN, and foreign governments estimated that 100,000 IDPs remained unsettled from the civil war. The majority did not intend to return to their area of origin, as many considered their new locations to be home. Some of those yet to return to their homes stated that a lack of physical infrastructure and government services, such as medical care and landmines, were major deterrents to their return.

The Ministry of Assistance and Social Reinsertion (MINARS) has primary responsibility for returnees and remaining IDPs, as well as housing and resettlement programs; however, its efforts remained inadequate. MINARS delegated primary responsibility to provincial governments to ensure safe, voluntary resettlement in areas cleared of mines and with access to water, arable land, markets, and adequate state administration.

In October the DRC forcibly repatriated approximately 52,000 Angolans, mostly documented refugees, to the border provinces of Uige and Zaire. Throughout October the government struggled to provide supplies, water, and bathroom facilities for those housed in temporary camps. By the end of November, MINARS had resettled approximately 75 percent of the refugees; however, logistical problems for those who remained in the camps persisted. Local NGOs reported that some MINARS state security officials charged 6,000 kwanzas (\$67) for transportation.

The government did not usually restrict aid efforts by international humanitarian groups. However, the IOM and other international organizations reported that the government sometimes denied their access to camps for returnees in Zaire and Uije provinces.

Protection of Refugees.—The government is a party to the 1951 UN Convention relating to the Status of Refugees, its 1967 protocol, and the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. The country's laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

The government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened. In October the government and the UNHCR resumed joint efforts to repatriate more than 200,000 refugees remaining outside the country since the civil war.

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

The law provides citizens with the right to change their government peacefully. Citizens were able to exercise the right to elect parliamentary representatives in

2008; however, the right to elect a head of state and local leaders remained restricted.

Elections and Political Participation.—After having postponed parliamentary elections for two years, the government held the first postwar elections in September 2008. The ruling MPLA won 81.6 percent of the vote. Domestic and international observers reported that polling throughout the country was peaceful and generally credible, although the ruling party enjoyed advantages due to state control of major media and other resources. Serious logistical failures marred polling in the capital, Luanda. Opposition parties criticized many aspects of the electoral process, including state control of the major media, late disbursement of public campaign funds, the National Electoral Commission's (CNE) failure to accredit some opposition and civil society electoral observers, and the CNE's last-minute decision to discard the legal requirement that a voter registry be used to verify voters' identity and residence at polling stations. Despite these and other irregularities, election day was peaceful, and more than 87 percent of registered voters participated. Opposition parties generally accepted the electoral results.

On January 15, the constitutional commission of parliament resumed work on a new constitution, which will determine the nature and timing of presidential elections. Although a presidential election was expected during the year, the deadline was extended to accommodate constitutional reforms.

The ruling MPLA dominated all political institutions. Political power was concentrated in the president and the Council of Ministers, through which the president exercised executive power. The council can enact laws, decrees, and resolutions, assuming most functions normally associated with the legislative branch. The National Assembly comprises 220 deputies elected under a party-list proportional representation system. This body has the authority to draft, debate, and pass legislation, but in practice laws generally were drafted and proposed by the executive branch for the assembly's approval. After the September 2008 legislative elections, opposition deputies held fewer than 20 percent of the parliamentary seats. Nonetheless, parliamentary committees frequently held hearings in which senior government officials were required to explain and defend government policy.

There were 96 registered opposition parties, 11 of which received government subsidies based on their representation in parliament. Of the 96, only 10 parties and four coalitions fulfilled the legal requirements to participate in legislative elections. The DNIC informed all parties that it would investigate and prosecute political parties that used forged documents for its members during the electoral period.

Opposition parties stated that their members were subject to harassment, intimidation, and assault by supporters of the ruling party. In May the FAA and National Police targeted UNITA party members during operations to deport foreign citizens from Lunda Norte province. On February 23, in Huambo, police detained two secretaries of the UNITA party youth wing, apparently based on MPLA accusations that they caused a public disturbance. UNITA officials claimed that police beat the two secretaries. One suffered a broken arm and both were jailed for more than 24 hours. UNITA officials secured their release and received assurances from the police commandant that the two officers would be disciplined. However, no investigation had taken place by year's end.

Also in February, police destroyed UNITA posters in Bie Province. Prior to the September 2008 elections, the UNITA municipal secretary in Benguela Province reported that a member of his party was beaten for wearing a UNITA T-shirt in the town of Ganda during the election campaign period. In August 2008 MPLA members harassed UNITA members in Namibe's town center when they tried to hang UNITA party flags on lampposts. UNITA campaign materials also regularly were torn down in Huambo Province.

Opposition party members and civil society leaders cited examples of political intolerance during the election process.

There were 62 women in the 220-seat parliament and 19 women in the 91-member cabinet, including nine ministers and eight vice-ministers. There were three female governors, including the governor of Luanda Province.

The country has three dominant ethnolinguistic groups: the Ovimbundu, Mbundu, and the Bakongo, which together constitute approximately 77 percent of the population. Other groups also were represented in government. There were six members of smaller ethnic groups in the parliament and one minority member in the cabinet who is Chokwe. The majority of political parties had limited national constituencies, but all parties were prohibited by law from limiting party membership based on ethnicity, race, or gender.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement these laws effectively, and local and international NGOs and media sources reported that officials engaged in corrupt practices with impunity. The Tribunal de Contas was the government agency responsible for combating government corruption; however, the DNIC also investigated some cases.

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

Government corruption was widespread, and accountability was limited due to a lack of checks and balances, lack of institutional capacity, and a culture of impunity. Despite the widespread perception that government corruption at all levels was endemic, public prosecutions were rare. However, at year's end, the former director of immigration and foreigners, along with six other senior Ministry of Interior officials, were on trial for corruption.

In February a high school principal was dismissed for selling matriculation to the school for approximately 11,000 to 13,000 kwanzas (\$120 to 140) per student.

There continued to be a lack of transparency in the government's procurement and use of oil-backed loans from the international community.

In April media sources investigated housing project contracts to build one million homes and wrote about unconfirmed reports that government officials received bribes in exchange for accepting contracts.

In September a foreign bridge-building company was convicted of foreign bribery with undisclosed Angolan ministers and officials dating back to 1990.

In October the DNIC held the finance division leader of Kwanza Sul provincial police force on charges of corruption, citing extraordinary charges and salary payments to deceased and retired police agents.

In October the government also charged five high-level immigration officials with fraud and corruption on embezzlement of funds and acceptance of bribes in immigration services in exchange for 27,000 to 90,000 kwanzas (\$300 to 1,000). The trial was ongoing at year's end.

On October 15, former governor of Bengo, Isalino Mendes, was found guilty of embezzling public funds.

In 2007 the government charged the former director general of immigration with extortion; the charges stemmed from a 2006 investigation that resulted in the conviction of other immigration officials.

The government continued its efforts to reduce discrepancies between reported and actual oil revenues by making data available online. To monitor and control expenditures more effectively, the Ministry of Finance continued implementation of the Integrated Financial System, a system designed to record all central government expenditures. State-owned oil and mining companies were required to conduct internal audits and submit the results to the government for review.

Parastatals, most notably the oil entity SONANGOL, were required to report revenues to the central bank and the Ministry of Finance, but inconsistent accounting practices hampered transparency. SONANGOL's dual role as governmental regulator and national oil company hindered transparency in the petroleum sector.

Audits of ENDIAMA, the state diamond parastatal, likewise were not made public. Serious transparency problems remained in the diamond industry, particularly regarding allocation of exploration, production, and purchasing rights.

The business climate continued to favor those connected to the government. Government ministers and other high-level officials commonly and openly owned interests in companies regulated by or doing business with their respective ministries. There were no laws or regulations regarding conflict of interest. Petty corruption among police, teachers, and other government employees was widespread. There were credible reports of high-level officials receiving substantial kickbacks from private companies awarded government contracts.

The law provides for public access to government information; however, the government was slow in providing it to the public. Information posted on most government Web sites remained limited. The government's limited technical capabilities also restricted its ability to provide information.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A variety of domestic and international human rights groups operated throughout the country. Some of those investigating government corruption and human rights abuses alleged government interference in their activities throughout the year.

More than 350 domestic NGOs operated in the country. An estimated 100 NGOs worked on human rights issues, although only a few were considered effective. Local NGOs actively promoted and defended human rights during the year by docu-

menting prison conditions, protesting forced evictions, providing free legal counsel, lobbying government officials, and publishing investigative reports.

The Law of Association requires NGOs to specify their mandate and areas of activity. The government used this provision to prevent or discourage established NGOs from engaging in certain activities, especially those that were politically sensitive or related to election issues. Six NGOs did not have a registry certificate. Government officials threatened to ban those NGOs it determined to be operating outside their mandate or not effectively working on the specific issues they were created to address; no NGOs were banned during the year.

The government arrested and harassed NGO workers. In September the director of SOS Habitat reported continued harassment and intimidation by security forces in Luanda, allegedly over his vocal opposition to housing demolitions.

The government also criticized domestic and international NGOs. In 2007 the director of the Humanitarian Assistance Technical Coordination Unit, the government agency that oversees NGOs, alleged that certain local NGOs and international NGOs such as Search for Common Ground, the National Democratic Institute, and the International Republican Institute had instigated public discontent and disobedience, operated outside of legal parameters, and illegally involved themselves in political activities. The director also accused the organizations of not being legally registered. However, the government took no action against these NGOs.

There were reports of police or military presence at community meetings with international NGOs, especially in Cabinda.

In 2007 security forces arrested Sarah Wykes, a well-known anticorruption researcher and specialist on extractive industry transparency. Authorities charged Wykes with unspecified crimes against state security during her visit to Cabinda to research transparency in the oil sector for Global Witness. Authorities released Wykes on bail three days later and allowed her to travel to Britain. She agreed to return for any future trial.

Problems with governmental delays in processing registration applications for NGOs continued. The AJPD, which continued to operate under a clause in the registration law that automatically grants legal operating status if authorities do not reject a group's application within 80 days, remained unregistered, and its request to register remained with the Supreme Court at year's end. Despite the lack of certification, the AJPD continued to work closely with some ministries, including in the expansion of its human rights training program with the National Police.

Mpalabanda, a civil society organization formerly based in Cabinda, remained banned; its registration was rescinded in 2006 when it joined the Cabindan Forum for Dialogue, a mechanism that negotiated peace with the government. The government determined that Mpalabanda was acting as a political entity outside of its legal mandate as a civil society organization. Mpalabanda supporters continued to distribute statements through the Internet and to attend public forums throughout the year. Former leaders reported low-level harassment and intimidation throughout the reporting period.

More than 100 international NGOs operated in the country. The government did not refuse visas to international NGO observers or otherwise restrict their access to the country.

Several international human rights organizations maintained a permanent presence in the country, including the ICRC. The government cooperated with international governmental organizations and permitted visits by UN representatives; however, in May 2008 the UNHRO closed its office following a government decision not to grant a full mandate to the office. The government had earlier requested a UNHRO presence in Luanda to contend with war-related human rights abuses, but the government claimed after six years of peace it had sufficient institutional capacity to address the issues independently. The decision to close the office directly contradicted government commitments to work more closely with the UNHRO, made when Angola won a three-year term on the UN Human Rights Council in 2007.

The ombudsman's office conducted prison visits during the year but issued no reports. In 2007 the ombudsman discounted reports of human rights abuses from SOS Habitat, Amnesty International, and HRW, stating they contained generic and unwarranted criticisms. He admitted the reports had "indicative value" but said his office did not have the staff necessary to follow up or issue reports.

The parliamentary committee on human rights visited prisons and held hearings on human rights issues during the year but did not issue any reports.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law prohibit discrimination based on race, gender, religion, disability, language, or social status; however, the government did not effectively enforce these prohibitions. Violence and discrimination against women, child abuse,

child prostitution, trafficking in persons, and discrimination against persons with disabilities and indigenous persons were problems.

Women.—Rape, including spousal rape, is illegal and punishable by up to eight years' imprisonment; however, limited investigative resources, poor forensic capabilities, and an ineffective judicial system prevented prosecution of most cases. The Organization of Angolan Women operated a shelter in Luanda that offered special services for rape victims. From January to June, the police commissioner in Luanda estimated that 10 cases of rape occurred daily nationwide, 40 percent in Luanda. In 2007 reports indicated that 350 rapes occurred in the capital. The Ministry of Justice worked with the Ministry of Interior to increase the number of female police officers and to improve police response to rape allegations. The government also instituted mass public campaigns against gender violence.

Domestic violence against women, including spousal abuse, was common and pervasive, particularly in urban areas. Domestic violence is not illegal; however, the government occasionally prosecuted it under rape, assault, and battery laws. A 2007 preliminary study on domestic violence in Luanda indicated that 78 percent of women had experienced some form of violence since the age of 15. Twenty-seven percent of women reported abuse in the 12 months preceding the study; among women living in the poor outskirts of Luanda, 62 percent reported abuse in the same time period. During the year police recorded 831 cases of domestic violence. The Ministry of Family and Promotion of Women (MINFAMU) registered 283 cases of domestic violence for 2008. Common-law husbands or boyfriends perpetrated the majority of violence. The MINFAMU maintained a program with the Angolan Bar Association to give free legal assistance to abused women; the ministry maintained counseling centers to help families cope with domestic abuse. Statistics on prosecutions for violence against women under these laws during the year were not available.

Religious leaders in Lunda Norte and Uíge reported that societal violence against elderly persons and rural and impoverished women and children occurred occasionally, with most cases stemming from accusations of witchcraft. Women sometimes were killed, beaten, or expelled from their families or died from mistreatment and malnourishment. The religious leaders, who offered church-run shelter to the victims, reported that police did not take action due to fears that the women might practice witchcraft on them.

Prostitution is illegal, but the prohibition was not consistently enforced. Many women engaged in prostitution due to poverty, but there were no estimates of its prevalence. The MINFAMU operated a women's shelter in Luanda that was open to former prostitutes.

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

Information on government provisions for reproductive health services or diagnosis and treatment of sexually transmitted infections, including HIV, was not available.

Under the constitution and law, women enjoy the same rights as men; however, societal discrimination against women remained a serious problem, particularly in rural areas. There were no effective mechanisms to enforce child support laws, and women generally bore the major responsibility for raising children. In addition the ministries of labor and health published an executive decree that listed the types of jobs prohibited to women.

The law provides for equal pay for equal work; however, women generally held low-level positions in state-run industries and in the private sector, or worked in the informal sector. The government, in an interministerial effort spearheaded by the MINFAMU, undertook multiple information campaigns on women's rights and domestic abuse and hosted national, provincial, and municipal workshops and training sessions during the year.

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

Citizenship is derived by birth within the country's territory or from one's parents. However, the government does not register all births immediately, and activists reported that many urban and rural children remained undocumented. The government did not permit undocumented children access to the educational system, and fees for birth certificates and identification cards remained prohibitive for impoverished families. Although the official registration drive ended in 2004, the government continued to partner with UNICEF to identify and assist undocumented children and provided limited subsidies to cover fees for families with proven finan-

cial need. The government implemented a previous plan to provide birth certificates in health clinics and maternity wards during the year.

Education is free and compulsory for documented children until the sixth grade, but students often had significant additional expenses. The Ministry of Education had insufficient resources, and educational infrastructure remained in disrepair. There were insufficient schools and teachers to provide universal primary education. The Ministry of Education estimated an 85-90 percent primary enrollment rate during the year. An estimated 30 percent of eligible children were enrolled at the secondary level.

Children in rural areas generally lacked access to secondary education, and seats were often insufficient even in provincial capitals. There were also reports of families paying bribes to education officials to ensure their child had a seat. According to the UN Educational, Social, and Cultural Organization, enrollment rates were higher for boys than for girls, especially at the secondary level.

The government provided free medical care for children with identity documents at pediatric hospitals and health posts throughout the country; however, in many areas, health care was limited or nonexistent. Where medical care was available, boys and girls had equal access.

Child abuse was widespread. Reports of physical abuse within the family were commonplace, and local officials largely tolerated abuse. In November 2008, 40 children were rescued from religious rituals of torture. In 2007 the government created the National Children's Council, an interministerial commission designed to define priorities and coordinate the government's policies to combat all forms of violence against children, including unlawful child labor, trafficking, and sexual exploitation. In 2007 INAC inaugurated a child protection network for Luanda Province.

During the year abuse of children accused of witchcraft continued to be a problem. In October 2008 the government closed three Luanda churches when neighbors reported abuse of children accused of witchcraft. Children accused of witchcraft were subject to abuses such as isolation from their families, denial of food and water, or ritualistic cuttings and the placing of various caustic oils or peppers on their eyes or ears. Persons sometimes killed children during "exorcism" rituals. Most cases of abuse relating to traditional beliefs occurred in Luanda, Uige, and Zaire provinces. Vulnerable children, such as orphans or those without access to health care or education, were more likely to be victims of practices involving witchcraft. Government and religious leaders called for an end to these practices, but the influence of these traditional beliefs remained strong.

In 2007 a teacher in Uige Province kidnapped and beat two children he suspected of witchcraft; one died from his injuries while the other one recovered. Authorities imprisoned and sentenced the teacher to eight years' hard labor.

The legal age for marriage, with parental consent, is 15. The government did not enforce this effectively, and the traditional age of marriage in lower income groups coincided with the onset of puberty. Common-law marriage was regularly practiced.

Child prostitution is illegal; however, local NGOs expressed concern over child prostitution, especially in Luanda and Cunene provinces. In February media sources reported on child prostitution cases in Luanda. In March NGO leaders appealed to the government for a collective response; however, they did not receive it by year's end.

Sexual relations with a child under 12 are considered rape. Sexual relations with a child between the ages of 12 and 15 may be considered sexual abuse, with convicted offenders liable for sentences of up to eight years in prison; however, limited investigative resources and an inadequate judicial system prevented prosecution of most cases. There were no known prosecutions during the year.

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

The country is a source for a small but significant number of women and children trafficked for the purposes of forced labor and sexual exploitation. Women and children were primarily trafficked to South Africa, the DRC, Namibia, and Portugal. Officials reported an increase in trafficking due to more open border posts. Young boys were reportedly trafficked to Namibia for bonded agricultural work.

Women and girls were trafficked within the country for domestic servitude and commercial sexual exploitation; young men were trafficked internally for agricultural or unskilled labor.

The country is also a destination for women and girls, mainly from the DRC, who are trafficked into diamond mining camps in Lunda Norte and Lunda Sul. Congolese women and children as well as Brazilian women were trafficked to the country during the year. Poor children and adults were most vulnerable to trafficking.

The few traffickers working in the country were not thought to function as a tightly organized unit; rather they worked mainly through a series of informal or loosely associated contacts. Methods used by traffickers to obtain and transport victims were mostly unknown, although some reports claimed false promises of employment opportunities that result in forced labor, including forced prostitution.

To prosecute trafficking cases, authorities used laws criminalizing forced or bonded labor, prostitution, pornography, rape, kidnapping, and illegal entry. The minimum sentence for rape is eight years' imprisonment, and sentences for related offenses carry a maximum of life imprisonment.

In April five Zimbabweans were trafficked into the country with false promises of professional employment. Traffickers detained the victims at a factory complex, subjected them to forced labor, and denied them access to travel documents and freedom of movement. In June the Zimbabwean government assisted in returning them to Zimbabwe.

On May 28, the UN Joint Human Rights Office reported that Congolese officials broke up a sex trafficking ring that trafficked more than 30 women and girls into Cabinda and sold them to members of the Angolan military. Local villagers indicated that the ring had operated for the previous five years. No prosecutions occurred during the year.

In 2007 immigration officials and the INAC in Zaire Province found 15 children trafficked from Luanda to the DRC; police arrested two suspected traffickers. In other cases, police were unable to identify the traffickers. Although the government began investigating one trafficking case in 2007, case records were destroyed in the 2008 collapse of the DNIC building. There were no known trafficking-related prosecutions during the year.

Immigration services and INAC played significant roles in antitrafficking efforts, including training to strengthen provincial and municipal child protection networks. Immigration officials operated border control checkpoints that verified travel documents for children but lacked the resources to control all border areas effectively. No single ministry has direct responsibility for combating trafficking.

The Ministry of Interior partnered with the IOM to provide antitrafficking seminars and training for police. In addition, police and border control officers and representatives of several ministries, including the Ministry of Justice and the attorney general's office, participated in similar workshops and seminars run by the IOM. The government operated facilities throughout the country for abandoned and abducted children; however, in many cases the facilities were underfunded, understaffed, and overcrowded. A Catholic-affiliated center in Namacumbe, near the Namibian border, assisted victims of trafficking to find and reintegrate with their families. The government provided basic assistance to trafficking victims on an ad hoc basis. Local social welfare agencies provided basic necessities. Victim assistance programs did not exist outside of Luanda, nor did the government operate shelters specifically for trafficking victims.

To prevent child trafficking, the Immigration Service operated checkpoints to screen minors for proper travel documentation at the international airport, border posts, and selected internal locations, such as the trafficking hotspot of Santa Clara in Cunene Province. INAC's six mobile provincial teams conducted spot checks of suspected child-trafficking routes by stopping vehicles transporting children to check for identity cards, proof of relationship to the children, and parental permission for the child's travel.

The State Department's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, and access to health care or other state services, but the government did not effectively enforce these prohibitions. Persons with disabilities included more than 80,000 landmine victims. Persons with albinism were common victims of discrimination, although church groups worked to eliminate the abuse. The NGO Handicap International estimated that persons with disabilities constituted 10 percent of the population. There is no legislation mandating accessibility for persons with disabilities to public or private facilities, and it was difficult for such persons to find employment or participate in the education system. MINARS maintained an office to address problems facing persons with disabilities, including veterans with disabilities, and several government entities supported programs to assist individuals disabled by landmine incidents. During the September 2008 election, the government provided voting assistance to persons with disabilities.

Indigenous People.—An estimated 3,500 San people lived in small, dispersed communities in Huila, Cunene, and Kuando Kubango provinces. The San are traditional

hunter-gatherers who are linguistically and ethnically distinct from their Bantu fellow citizens. Their very limited participation in political life has increased, and Ocadec, a local NGO advocate for the San people, worked with provincial governments to increase services to San communities and to improve communication between these communities and the government.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The law does not criminalize homosexuality or sodomy, although discussing homosexuality in society was highly taboo.

Other Societal Violence or Discrimination.—Discrimination against those with HIV/AIDS is illegal, but lack of enforcement allowed employers to discriminate against persons with the disease. Local NGOs reported cases of discrimination against professionals with HIV/AIDS. There were no reports of violence against persons with HIV/AIDS. The government's National Institute for the Fight Against HIV/AIDS conducted HIV/AIDS awareness and prevention campaigns. Local NGOs worked to combat stigmatization and discrimination against persons living with HIV/AIDS. In 2008 the FAA conducted educational programs to discourage discrimination against HIV-positive military personnel and prevent the spread of the disease.

Section 7. Worker Rights

a. The Right of Association.—The constitution and law provide for the right of workers to form and join independent unions, and workers exercised this right in practice; however, government approval is required.

The law allows unions to conduct their activities without government interference, although the government did not protect this right. Labor unions independent of the government-run unions worked to increase their influence, but the ruling MPLA continued to dominate the labor movement due to historical connections between the party and labor.

Workers have the right to strike, although strict bureaucratic procedures must be followed for a strike to be considered legal, and the government can deny the right to strike or obligate workers to return to work. Unlike in the previous year, there were no strikes in the country. However, in 2007 the government declared some strikes, including those by teachers in Luanda and nurses in Benguela, illegal. Teachers in Luanda were ordered back to work and threatened with termination if they did not comply.

b. The Right to Organize and Bargain Collectively.—The constitution and law provide for the right of unions to conduct their activities without interference, but the government did not always protect this right. The law protects the right to establish a union for the purpose of collective bargaining. The government routinely thwarted union efforts at collective bargaining with long delays in processing.

There are no legal restrictions on collective bargaining, but bargaining was restricted in practice. The government is the country's largest employer, and the Ministry of Public Administration, Employment, and Social Security (MAPESS) centrally mandated wages.

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

The constitution grants the right to engage in union activities, but the government may intervene in labor disputes that affect national security, particularly strikes in the oil sector. The law prohibits lockouts and worker occupation of places of employment and provides protection for nonstriking workers. It prohibits strikes by armed forces personnel, police, prison workers, and fire fighters. The Ministry of Labor has a hotline for workers who feel their rights have been violated. The law does not effectively prohibit employer retribution against strikers, and it permits the government to force workers back to work for "breaches of worker discipline" or participation in unauthorized strikes.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, but international NGOs reported that such practices occurred. The Ministry of Justice has effective enforcement mechanisms for the formal economic sector; however, most labor law violations occurred outside the formal economy and were not subject to legal sanctions.

d. Prohibition of Child Labor and Minimum Age for Employment.—Child labor in the formal sector was restricted under the law; however, child labor, especially in the informal sector, remained a problem. The legal minimum age for apprenticeship is 14 years, and 18 for full employment. Children between the ages of 14 and 18

may not work at night, in dangerous conditions, or in occupations requiring great physical effort, and children younger than 16 are prohibited from factory work; however, these provisions rarely were enforced. In 2007 in Kwanza Sul Province, independent newspaper journalists found children as young as age 10 working full-time on a plantation; they did not attend school and stated that they were often paid with food. The local manager was fired, but no charges were filed against the local or general managers.

Most work done by children was in the informal sector. Children engaged in wage-earning activities such as agricultural labor on family farms and commercial plantations, charcoal production, domestic labor and street vending. Exploitive labor practices included forced prostitution, involvement in the sale or transport of illegal drugs, and the offloading and transport of goods in ports and across border posts. Children reportedly were used as couriers in the cross-border trade with Namibia.

Street children were common, especially in the provinces of Luanda, Benguela, Huambo, and Kwanza Sul. Investigators found children working in the streets of Luanda, but many returned to some form of dwelling during the evening. Most of these children shined shoes, washed cars, carried water, or engaged in other informal labor, but some resorted to petty crime, begging, and prostitution.

The MAPESS inspector general is ultimately responsible for enforcing all labor laws; however, the MINFAMU also plays a significant role in investigating complaints of child labor.

The Children's Affairs Court, under the Ministry of Justice, has jurisdiction over general child protection in Luanda. Child labor cases continued to be adjudicated by the provincial criminal courts for minors aged 16 to 18 or by MINFAMU courts for children under age 16. Child labor violations are punishable by fines.

In practice neither the Labor Code nor the judicial system was capable of ensuring protection of labor rights.

Mechanisms were in place to investigate and prosecute, but the court system was overextended and resources for family or children's affairs courts were limited. The government lacked the capacity to oversee the much larger informal sector. There was no formal procedure for inspections and investigations of child labor abuses outside of the family law system, although private persons can file accusations of violations of child labor laws.

The government, through INAC, worked to create, train, and strengthen child protection networks at the provincial and municipal level in all 18 provinces. The networks reported cases in which they successfully identified and removed children from exploitative work situations, but no mechanism existed to track cases or provide statistics. The government also dedicated resources to the expansion of educational opportunities for children.

e. Acceptable Conditions of Work.—In 2008 MAPESS raised the minimum wage in the formal sector to approximately 8,600 kwanzas (\$95) per month, which did not provide a decent standard of living for a worker and family. Most wage earners held second jobs or depended on the agricultural or other informal sectors to augment their incomes. The majority of citizens derived their income from the informal sector or subsistence agriculture and therefore fell outside of government protection of working conditions.

By law the standard workweek is 40 hours with at least one unbroken period of 24 hours of rest per week. There is a limit on work of 54 hours per week. Required premium pay for overtime is time and a half for up to 30 hours of overtime, and time and three-quarters from 30 to 40 hours. In the formal sector, there is a prohibition on excessive compulsory overtime, defined as more than two hours a day, 40 hours a month, or 200 hours a year. These standards were not enforced effectively unless employees requested it.

The government has set occupational health and safety standards; however, the Ministry of Labor's Office of the Inspector General did not enforce these standards effectively. Inspections occurred, although inspection findings were not effectively enforced. Workers have the right to remove themselves from situations that endangered health or safety without jeopardy to their employment, but the right was not exercised in practice.

BENIN

Benin is a constitutional democracy with a population of 7.9 million. In 2006 President Boni Yayi was elected to a five-year term in multiparty elections. In the 2007 legislative elections, President Yayi's Cowry Force for an Emerging Benin (FCBE) won 35 of 83 seats in the National Assembly and formed a majority with

a group of 13 National Assembly members from minor political parties. This coalition proved unstable and relations grew more tense as opposition parties refused to join President Yayi's government. International observers viewed both the presidential and legislative elections as generally free and fair. However, municipal and local elections held in April and May 2008 were marred by numerous irregularities, protests, and credible allegations of fraud. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens. However, there were problems in some areas. There were reports that police occasionally used excessive force. Vigilante violence resulted in deaths and injuries. Harsh prison conditions and arbitrary arrest and detention with prolonged pretrial detention continued. Impunity and corruption were problems. Women were victims of violence and societal discrimination, and female genital mutilation (FGM) was commonly practiced. Trafficking and abuse of children, including infanticide and child labor, occurred.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings. There were no developments in the 2008 case of gendarmes killing a local resident and seriously injuring three in Wawata-Zounto.

The police generally ignored vigilante attacks, and incidents of mob violence continued to occur, in part due to the perceived failure of local courts to punish criminals adequately. Such cases generally involved mobs killing or severely injuring suspected criminals, particularly thieves caught stealing. For example, on February 2, inhabitants of Adjohoukole, a village in the southeast, discovered a cattle theft ring allegedly attempting to steal cows. The inhabitants caught a member of the ring who tried to flee on his motorbike. They beat him, tied him up, and burned him to death. The other members of the ring fled in two cars. The police came to the crime scene to file a report but made no concerted effort to investigate or arrest those involved in the killing.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution and law prohibit such practices; however, the government did not always respect these prohibitions. Beatings in custody reportedly were commonplace.

The Constitutional Court received complaints from citizens who were brutalized by the police. For example, on February 5, the Constitutional Court ruled that a gendarme violated provisions of the constitution prohibiting degrading treatment or punishment when the gendarme, during a road security check, got into a car and brutalized the occupants, a woman and her driver.

There was no further information regarding the 2007 incident when presidential guards shot and injured two persons for failing to obey instructions when President Yayi's motorcade passed. At the time, the guards reportedly were arrested.

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

Mob violence resulted in deaths and injuries. For example, on the night of September 14, residents of Abomey in the central region surprised two burglars who had just broken into a restaurant. The two burglars fled, but residents caught the two motorbike taxi drivers whom the two men hired to transport items they planned to steal from the restaurant. They burned the two motorbike taxi drivers. One died on the spot while the second one was hospitalized. The police did not investigate, and there were no arrests.

Prison and Detention Center Conditions.—Prison conditions continued to be extremely harsh. Overcrowding and lack of proper sanitation and medical facilities posed risks to prisoners' health. According to a 2008 review, the number of prisoners in the eight civil prisons reached 204 percent of capacity.

Prison diet was inadequate, and malnutrition and disease were common. Family members were expected to provide food for inmates to supplement prison rations, as prisoners were fed only once a day. There were deaths in prison due to malnutrition, disease, and neglect, although statistics were not available.

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

The government permitted prison visits by human rights monitors. Nongovernmental organizations (NGOs) and religious groups continued to visit prisons. Organizations that visited prisons during the year included the International Committee of the Red Cross, Amnesty International, the local chapter of Prison Fellowship, Caritas, and Prisoners Without Borders.

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

Role of the Police and Security Apparatus.—The police, under the Ministry of Interior, have primary responsibility for enforcing law and maintaining order in urban areas; the gendarmerie, under the Ministry of Defense, performs the same function in rural areas. The police were inadequately equipped, poorly trained, and ineffective in conducting investigations related to gender-based crimes and in their failure to prevent or respond to mob violence. The government continued to address these problems by recruiting more officers, building more stations, and modernizing equipment during the year; however, serious problems remained, including widespread corruption and impunity. Police continued to extort money from travelers at roadblocks.

Arrest Procedures and Treatment While in Detention.—The constitution requires arrest warrants based on sufficient evidence and issued by a duly authorized official and requires a hearing before a magistrate within 48 hours; under exceptional circumstances the magistrate may authorize continued detention not to exceed eight days. Detainees have the right to prompt judicial determination and the right to prompt lawyer access after being brought before a judge; they are also allowed to receive family visits. After examining a detainee, the judge has 24 hours to decide whether to continue to detain or release the individual. Defendants awaiting judicial decisions may request release on bail; however, the attorney general must agree to the request. Warrants authorizing pretrial detention were effective for six months and could be renewed every six months until the suspect was brought to trial. The government provided counsel to indigents in criminal cases.

There were credible reports that gendarmes and the police exceeded the legal limit of 48 hours of detention in many cases, sometimes by as much as a week. Authorities often used the practice of holding a person indefinitely “at the disposal of” the public prosecutor’s office before presenting the case to a magistrate. Approximately 75 percent of persons in prison were pretrial detainees. Inadequate facilities, poorly trained staff, and overcrowded dockets delayed the administration of justice.

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary, but the government did not always respect this provision. The judiciary remained inefficient in some respects and it was commonly believed—and acknowledged by some judicial personnel—that the judicial system at all levels was susceptible to corruption. However, there were no reports that judicial employees were sanctioned or arrested on corruption charges during the year.

The president appoints career magistrates as judges in civil courts. The president is assisted in this responsibility by the High Judicial Council that serves also as a disciplinary committee for magistrates and considers pardon cases that the president submits. The constitution gives the Ministry of Justice administrative authority over judges, including the power to transfer them.

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

Military disciplinary councils deal with minor offenses by members of the military services; they have no jurisdiction over civilians. Civilian courts deal with crimes involving the military. The country has no military tribunal.

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

The legal system is based on French civil law and local customary law. A defendant is presumed innocent. Jury trials are used in criminal cases. A defendant has the right to be present at trial and to representation by an attorney, at public expense if necessary; the court provides indigent defendants with counsel upon request. A defendant has the right to confront witnesses and to have access to government-held evidence. Defendants are allowed to present witnesses and evidence on their own behalf. Defendants can appeal criminal convictions to the court of appeals and the Supreme Court, after which they may appeal to the president for a pardon.

Trials are open to the public, but in exceptional circumstances the president of the court may decide to restrict access to preserve public order or to protect the parties. The government extends the above rights to all citizens without discrimination.

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

Civil Judicial Procedures and Remedies.—There is an independent and impartial judiciary in civil matters. If administrative or informal remedies are unsuccessful, any citizen may file a complaint concerning an alleged human rights violation with the Constitutional Court.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and law prohibit such actions, and the government generally respected these prohibitions. The law requires police to obtain a judicial warrant before entering a private home, and they generally observed this requirement.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution and law provide for freedom of speech and of the press; however, the government did not always respect these rights. Unlike last year there were no reports that security forces intimidated and brutalized journalists. The government occasionally inhibited freedom of the press. The law criminalizes libel, and numerous journalists faced pending libel charges. The law prohibits private citizens and the press from declaring or predicting election results. Journalists practiced self-censorship.

In August 2008 a parliamentary correspondent complained to the Beninese Union of Media Workers (UPMB) that the head of the military detachment stationed at the National Assembly threatened him with death, allegedly because he published articles criticizing a government policy. There was no further action on this matter.

A 2008 report published by the NGO Human Rights, Peace, and Development (DHPD-ONG) stated that the government awarded communication contracts to private media for propaganda purposes, adversely influencing the exercise of freedom of the press.

The constitution provides for prison sentences involving compulsory labor for certain actions related to abuse of the right of free expression; penalties are for threats to public order or calls to violence, but the law is vaguely worded and susceptible to abuse. There were no reports that the law was invoked during the year.

The independent media were active and expressed a wide variety of views without restriction. Publications criticized the government freely and frequently, but their effect on public opinion was limited due to restricted circulation and widespread illiteracy. A nongovernmental media ethics commission (ODEM) continued to censure some journalists during the year for unethical conduct, such as reporting falsehoods or inaccuracies or releasing information that was under embargo by the government.

The government continued to own and operate the most influential media organizations by controlling broadcast range and infrastructure. The majority of citizens were illiterate, lived in rural areas, and generally received their news via radio. The governmental Office of Radio and Television (ORTB) broadcast in French and local languages. There were an estimated 75 private, community, and commercial radio stations, and one government-owned and five private television stations. Rural community radio stations received support from the ORTB, and broadcast several hours a day exclusively in local languages. Radio France International and the BBC broadcast in Cotonou. The government granted 350 million CFA (approximately \$78,000) in financial assistance to the private media during the year.

The 2007 “National Report on Press Freedom,” released by DHPD-ONG, stated that judges were often lax in prosecuting libel cases. A judiciary source indicated that the court continued to receive libel cases against journalists, but judges generally refrained from prosecuting them. Journalists continued to fight for the decriminalization of press-related offenses. At the end of 2007, 150 libel cases were still pending before the first instance court of Cotonou, and a report from the judiciary indicated that the court continued to receive libel cases against journalists during the year.

In contrast with 2008, there were no reports that the government penalized journalists who published items counter to government guidelines.

The High Authority of Audiovisual and Communication (HAAC) oversaw media operations and required broadcasters to submit weekly lists of planned programs and publishers to submit copies of all publications; however, the media did not comply with these requirements in practice. The HAAC claimed that the information was used for administrative purposes; however, some journalists complained that it was a form of harassment.

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

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

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

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The constitution and law provide for freedom of assembly, and the government generally respected these rights.

The government requires permits for use of public places for demonstrations and generally granted such permits; however, the authorities sometimes cited “public order” to deny requests for permits from opposition groups, civil society organizations, and labor unions. For example, on July 21, the government banned a unionists’ march to protest the government’s management of a high-profile corruption case linked to the renovation of two conference centers in preparation for the 2008 meeting of the Sahel-Saharan States Community (CEN-SAD.) The objection was that the march would hinder the pending investigation and disrupt public order. Unionists complained that the government had denied them the right to protest.

Freedom of Association.—The constitution and law provide for freedom of association, and the government generally respected this right. The government requires associations to register and routinely granted registration.

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

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

Societal Abuses and Discrimination.—There were no reports of societal abuses or discrimination against members of religious groups. There was no known Jewish community, and no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights; however, the presence of police, gendarmes, and illegal roadblocks impeded domestic movement. Although ostensibly meant to enforce vehicle safety and customs regulations, many checkpoints served as a means for police and gendarmes to exact bribes from travelers. The government maintained previously implemented measures to combat such corruption at roadblocks, but they were not always effective, and extortion commonly occurred.

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

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

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

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. The country is also a party to the 1969 African Union Convention Concerning the Specific Aspects of the Refugee Problem in Africa. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The government did not provide temporary protection during the year. If individuals do not qualify as refugees under the 1951 convention or the 1967 protocol, authorities direct them to the Immigration Office to apply for a residence permit.

The government continued to permit Togolese refugees residing in local communities and refugee camps to participate in most economic activities and to enroll

their children in local schools. In 2007 UNHCR and the governments of Benin and Togo signed a tripartite agreement to organize the voluntary repatriation of Togolese refugees. From January to June, 33 Togolese refugees returned to Togo through UNHCR's voluntary repatriation program.

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

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

Elections and Political Participation.—In 2006 President Boni Yayi was elected to a five-year term in multiparty elections. In the 2007 legislative elections, President Yayi's FCBE won 35 of the 83 seats in the National Assembly. A group of 13 National Assembly deputies from minor political parties ("the G-13") joined the FCBE to form a majority of 48 seats in the National Assembly. In 2008 the G-13 dissolved the coalition amidst political tension and the FCBE was left with its initial 35 seats. The G-13 sided with opposition parties and formed a blocking majority. Opposition groups declined President Yayi's invitation to join his government.

International observers viewed both the presidential and legislative elections as generally free and fair. However, fraud allegations and irregularities marred the April and May 2008 local and municipal elections. Voters filed hundreds of appeals with the Supreme Court, which annulled results in a number of communes and ordered new elections and recounting of votes in constituencies where results were disputed.

Individuals and parties could freely declare their candidacy and stand for election. There were no government restrictions on the political opposition. No single party or group has recently dominated politics.

There were nine women in the National Assembly and four female ministers in the 30-member cabinet. The Constitutional Court had two women among its seven justices.

The country has no majority ethnic group. Diverse ethnic groups were well represented in government agencies, the civil service, and the armed forces. In the National Assembly, 11 members were from the Nago and Yoruba ethnic groups, 24 from the Bariba, Somba, and Dendi ethnic groups, and 34 from the Fon, Goun, Adja, and other smaller groups. Nine cabinet ministers were from the Bariba, Somba, and Dendi ethnic groups, 15 were from the Fon, Goun, and Adja ethnic groups, and three were from the Yoruba and Nago ethnic groups.

Section 4. Official Corruption and Government Transparency

Official corruption remained widespread. President Yayi continued his 2006 anticorruption initiative.

On July 3, the government released a State Audit Office's (IGE) report; it detailed alleged corrupt practices including illegal awarding of public contracts, overbilling, mismanagement, and misappropriation of public funds for the renovation of two conference centers in preparation for the June 2008 CEN-SAD summit. The government confirmed the involvement of high-ranking officials, including the former minister of finance and economy and officials in charge of public procurement. The government dismissed the officials and requested disciplinary action against them pending legal action.

No formal action was taken by year's end on the 2007 finding by the IGE that approximately 300 civil servants may have embezzled 23 billion CFA (approximately \$51 million). The IGE had turned its findings over to the Ministry of Justice for further investigation and possible action.

In 2007 the NGO Front of National Anticorruption Organizations accused two deputies of the National Assembly, who formerly had been executive directors of the Benin Electric Energy Corporation, of mismanagement and embezzlement of public funds. President Yayi asked the National Assembly to lift the immunity of the two deputies so they could be questioned by the IGE; however, it was not lifted by year's end.

On July 31, the Court of Cotonou released on bail Alain Adihou, the former minister of institutional relations who was in pretrial detention since 2006 on the charge of embezzling one billion CFA (approximately \$2 million).

The Watchdog to Combat Corruption (OLC), a governmental anticorruption agency, launched a nationwide effort to publicize the National Strategic Plan to Combat Corruption and conducted a survey to gauge the magnitude of petty corruption and bribery in the public administration. During the year the OLC provided awareness and training sessions for ministry officials on issues of transparency in public contracts and impunity in public administration. OLC also trained judicial personnel

on the UN Convention Against Corruption and the African Union Convention on Preventing and Combating corruption.

The World Bank's most recent Worldwide Governance Indicators reflected that corruption continued to be a serious problem.

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

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views. The government met with domestic NGO monitors through the Advisory National Human Rights Council.

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

The government cooperated with international organizations. During the year representatives of the Committee for the Prevention of Torture (CPT) and of the UN Committee on the Elimination of Discrimination Against Women visited the country. Following its visit, the CPT made wide-ranging recommendations. On November 19, the World Committee Against Torture and the International Federation of Action by Christians for the Abolition of Torture, in conjunction with the Ministry of Justice, Legislation, and Human Rights and local NGOs, held a follow-up seminar to consider the recommendations made by the CPT and to map out strategies for the implementation of these recommendations by the government.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

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

Women.—The law prohibits rape, but enforcement was weak due to police ineffectiveness, victims' unwillingness to refer cases to the police for fear of social stigma, and corruption. The penal code does not make a distinction between rape in general and spousal rape. Sentences for rape convictions ranged from one to five years' imprisonment. In 2008 there were approximately 600 gender-based violence cases registered in the country's eight courts. Because of the police's lack of training in collecting evidence associated with sexual assaults, and victims' failure to present evidence in court, judges reduced most sexual offenses to misdemeanors.

Domestic violence against women was common. The penal code prohibits domestic violence, and penalties range from six to 36 months' imprisonment. However, NGO observers believed that women remained reluctant to report cases. Judges and police were reluctant to intervene in domestic disputes; society generally considered such cases to be internal family matters. The local chapter of a regional NGO, Women in Law and Development-Benin (WILDAF), the Female Jurists Association of Benin (AFJB), and the Women's Justice and Empowerment Initiative (WJEI) through Care International's Empower Project offered social, legal, medical, and psychological assistance to victims of domestic violence. The Office of Women's Promotion under the jurisdiction of the Ministry of Family and Solidarity is responsible for protecting and advancing women's rights and welfare.

FGM was practiced on girls and women from infancy up to 30 years of age, and generally took the form of excision. Approximately 17 percent of women and girls have been subjected to FGM; the figure was higher in some regions, including Atacora (45 percent) and Borgou (57 percent), and among certain ethnic groups; more than 70 percent of Bariba, Yoa-Lokpa, and Peul (Fulani) women have undergone FGM. Younger women were less likely to be excised than their older counterparts. Those who performed the procedure, usually older women, profited from it. The law prohibits FGM and provides for penalties for performing the procedure, including prison sentences of up to 10 years and fines of up to six million CFA (approximately \$13,000); however, the government generally was unsuccessful in preventing the practice. Individuals who were aware of an incident of FGM but did not report it potentially faced fines ranging from 50,000 to 100,000 CFA francs (approximately \$110 to \$220). Enforcement was rare, however, due to the code of silence associated with this crime. In one example, in September police arrested a woman on the strength of a denunciation by a local NGO that accused her of excising seven

girls in the area of Kouande in the north. The police referred the case to the Court of Natitingou. On October 26, the Court of Natitingou sentenced the woman to one and a half years imprisonment.

NGOs continued to educate rural communities about the dangers of FGM and to retrain FGM practitioners in other activities. A prominent NGO, the local chapter of the Inter-African Committee, made progress in raising public awareness of the dangers of the practice, and the government cooperated with these efforts. The Ministry of Family continued an education campaign that included conferences in schools and villages, discussions with religious and traditional authorities, and displaying banners. NGOs also addressed this issue in local languages on local radio stations.

Prostitution, especially child prostitution, was a problem. There were credible reports that tourists visiting the Pendjari National Park in the far northwest used the services of prostitutes, many of them minors. It was not clear whether these tourists operated through a local or an international network, or whether they came to the region primarily for sex tourism. In March the government, in conjunction with the UN Children's Fund (UNICEF) and a local bank, launched a seven-day campaign against sex tourism involving children aged eight to 17 to spread awareness of the dangers of sex tourism.

Under the penal code there are no penalties imposed on prostitutes; however, those who facilitate prostitution and individuals who profit financially from prostitution, including traffickers and brothel owners, face penalties including imprisonment of six months to two years and fines of 400,000 to four million CFA (approximately \$890 to \$8,900) depending on the severity of the offense. Individuals involved in child prostitution, including those who facilitate or solicit it, face imprisonment of two to five years and fines of one million to ten million CFA (approximately \$2,200 to \$22,200). Although there are no penalties in the penal code for prostitutes, the belief that prostitution is illegal is widespread, and police often raided brothels to arrest prostitutes to deter the practice; the prostitutes were then released without being charged with any offense.

Sexual harassment was common, especially of female students by their male teachers. The law prohibits sexual harassment and offers protection for victims. Under the law, persons convicted of sexual harassment face sentences of one to two years in prison and fines ranging from 100,000 to one million CFA (approximately \$220 to \$2,200). The law also provides penalties for persons who are aware of sexual harassment and do not report it. Enforcement of these laws was lax due to law enforcement agents' and prosecutors' lack of legal knowledge and necessary skills to pursue such cases, and victims' fear of social stigma. Although this specific law was not enforced, judges used other provisions in the penal code to deal with sexual abuses involving minors.

Article 26 of the constitution provides that the government shall protect the family, particularly the mother and the child. The country's May 2006 Declaration on Population Policy (DEPOLIPO) promotes responsible fertility to reduce early and/or late childbearing and to promote family planning through the distribution of contraceptives. Act No. 2003-04 of March 2003 on Sexual and Reproductive Health guarantees couples and individuals reproductive rights, including access to health care, freedom to give birth, freedom of marriage, rights to nondiscrimination, access to contraception, and equal access to health care for people living with sexually transmitted infections including HIV. Article 19 of Act No. 2003-04 provides penalties for the commission of all acts prejudicial to the enjoyment of sexual and reproductive health. The government in general respected these rights.

Although the constitution provides for equality for women in the political, economic, and social spheres, women experienced extensive discrimination.

In response to a complaint filed by a woman being prosecuted for adultery, on July 3 the Constitutional Court ruled that adultery-related provisions contained in the Penal Code are unconstitutional on the grounds that these provisions discriminate against women.

In rural areas women traditionally occupy a subordinate role and are responsible for much of the hard labor on subsistence farms. In urban areas women dominated the informal trading sector in the open air markets. During the year the government and NGOs continued to educate the public on the 2004 family code, which provides women with inheritance and property rights and significantly increases their rights in marriage, including prohibitions on forced marriage, child marriage, and polygamy.

In practice women experienced discrimination in obtaining employment, credit, and equal pay, and in owning or managing businesses. During the year the government granted microcredits to the poor, especially to women in rural areas, to help

them develop income-generating activities. An estimated 600,000 women benefited from these microcredit projects in the past two years.

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

Particularly in rural areas, parents often did not declare the birth of their children, either out of ignorance or because they could not afford the fees for birth certificates. A 2001 survey indicated that a quarter of children under 18 were not registered at birth. This could result in denial of public services such as education and health care. Several donors have taken action to increase the number of registered children. Over the last two years, the NGO PLAN International has supported the free registration of children who need to take the primary school leaving exam. (Without a birth certificate children may attend primary school but cannot take the exam.) UNICEF and the NGO CRS/World Education have supported the government's campaign to register every birth.

Primary education was compulsory for all children between six and 11 years of age. It became tuition free for all children starting with the 2007-08 school year; however, in some parts of the country girls received no formal education. Parents often voluntarily paid tuition for their children because many schools had insufficient funds. The government offered books to pupils at reduced prices. According to UNICEF, primary school enrollment was approximately 90 percent for boys and 60 percent for girls; only 26 percent of boys and 12 percent of girls were enrolled in secondary school. Girls did not have the same educational opportunities as boys, and female literacy was approximately 18 percent, compared to 50 percent male literacy.

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

The family code prohibits marriage under 14 years of age; however, the practice continued in rural areas. Underage (14 to 17 years of age) marriage was permitted with parental consent. There also was a tradition in which a groom abducts and rapes his prospective child bride. The practice was widespread in rural areas, despite government and NGO efforts to end it through information sessions on the rights of women and children. Local NGOs reported that communities concealed the ongoing practice.

Despite widespread NGO campaigns, the traditional practices of killing deformed babies, breech babies, babies whose mothers died in childbirth, and one of two newborn twins (because they were considered sorcerers) continued in some rural areas, and perpetrators acted with impunity.

Through the traditional practice of *vidomegon*, poor, generally rural, families placed a child in the home of a wealthier family. The child received living accommodations, while the child's parents and the urban family that raised the child split the income generated by the child's activities; however, the child often faced forced labor, long hours, inadequate food, and sexual exploitation. *Vidomegon* traditionally was intended to provide better educational opportunities and a higher standard of living for children of poor families; however, this practice has made children more vulnerable to labor exploitation and to trafficking. Up to 95 percent of the children in *vidomegon* were young girls.

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

Child prostitution was a problem. Some children, including street children, engaged in prostitution without third party involvement to support themselves.

Child labor, although illegal, remained a problem.

There were many street children, most of whom did not attend school and lacked access to basic education and health services.

Trafficking in Persons.—The law prohibits trafficking in children, but no law prohibits trafficking in adults. However, the government has used laws that prohibit human smuggling and the labor code to prosecute traffickers.

The country was a source, transit point, and destination for trafficked persons, primarily children trafficked for forced labor and sexual exploitation. The majority of trafficking occurred internally within the extended family or community; however, organized criminal networks also were active. The majority of Beninese children trafficked outside of the country are sent to Nigeria, followed by Cote d'Ivoire and Gabon. Children were trafficked to Ghana, Nigeria, Gabon, Cote d'Ivoire, Republic of Congo, Guinea-Bissau, the Central African Republic, and possibly Equatorial Guinea for domestic work, farm labor, labor in stone quarries, and prostitu-

tion. In addition, children were taken across the border to Togo and Cote d'Ivoire to work on plantations. Children from Niger, Togo, and Burkina Faso were trafficked to the country for indentured or domestic servitude. Trafficked children generally came from poor rural areas and falsely were promised educational opportunities or other incentives. There were no reports of trafficking of adults.

The penal code prohibits child prostitution; however, enforcement was limited, and the commercial sexual exploitation of children was a problem. Child prostitution often involved girls whose poor families urged them to become prostitutes to provide income. Other children were lured to exchange sex for money by older men, often traffickers, who acted as their "protectors." Some children were abused sexually by teachers who sought sex in exchange for better grades. NGOs and international organizations organized assistance to child prostitution victims and worked on prevention programs.

Penalties for traffickers involved in "labor exploitation" ranged from fines to prison terms, forced prison labor, or the death penalty, depending on the severity of the crime and the length of time over which the exploitation occurred; however, enforcement was lax. No statistics were available on the number of cases.

The 2006 law against child trafficking provides for increased penalties for the trafficking of minors, including imprisonment from six months to life, depending on the severity of the crime, and fines from 50,000 to five million CFA (approximately \$110 to \$11,000). Individuals who are aware of child trafficking offenses and do not report them can be fined 10,000 to 50,000 CFA (approximately \$20 to \$110).

During the year the government continued its efforts to arrest and prosecute traffickers. On June 20, security forces intercepted a vehicle in Cotonou transporting 11 children from the Togo-Benin border to be trafficked to Lagos, Nigeria. The Minors Protection Brigade (BPM) interviewed the traffickers and the victims, and referred traffickers to the Court of Cotonou for further legal action.

The government reported that during the year the country's eight courts prosecuted 40 cases related to offenses including child trafficking, child rape, and kidnapping.

In 2006, together with 23 other West and Central African countries, the government signed an agreement to adopt an action plan to combat trafficking. Regional efforts also continued between heads of state of concerned countries to identify, investigate, and prosecute agents and traffickers, and to protect and repatriate trafficking victims. In November 2008 the joint Benin and Nigeria Committee to Combat Child Trafficking developed a 2009-10 joint action plan to combat the trafficking of children from Zakpota, Benin to Abeokuta, Nigeria for labor in stone quarries. The government facilitated reintegration of Beninese trafficking victims rescued from Abeokuta quarries during the year.

Since 1999 UNICEF and other donors have supported the Ministry of Family to establish, equip, and train more than 1,300 local committees to combat child trafficking through community surveillance and monitoring. During the year activity focused on child trafficking in the north. The BPM sought to prevent crimes against children and investigated cases of child trafficking and other crimes committed against children. It arrested traffickers, rescued victims, and worked towards their social reintegration. The government worked with NGOs to combat child trafficking, using media campaigns and greater border surveillance; however, police complained that they lacked equipment to monitor trafficking adequately. Resource constraints, prevailing cultural attitudes, and a lack of interagency coordination prevented the government from meeting minimum standards for the elimination of trafficking.

During the year the Ministry of Family, international NGOs, and the donor community assisted numerous children who had been trafficked to other countries to work in mines, quarries, and on farms. Efforts included the provision of food, shelter, and medical treatment. The Ministry of Family also cooperated with partners to operate centers in urban areas to provide education and vocational training to victims of child trafficking. During the year government efforts to reunite trafficked children with their families continued.

The State Department's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—Discrimination against persons with physical and mental disabilities is not prohibited by law; however, the law provides that the government should care for persons with disabilities. There were no legal requirements for the construction or alteration of buildings to permit access for persons with disabilities. The government operated few institutions to assist persons with disabilities, and many such individuals were forced to beg to support themselves.

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

Labor under the Ministry of Labor and Civil Service is responsible for protecting the rights of persons with disabilities.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—There were no reports of overt societal discrimination or violence based on a person's sexual orientation.

Other Societal Violence or Discrimination.—There were no reports of overt discrimination or violence based on HIV/AIDS status. Since 2006 it has been illegal to discriminate against a person, at any stage of hiring or employment, based on his or her HIV status.

Section 7. Worker Rights

a. The Right of Association.—The labor code allows workers to form and join independent unions of their choice without previous authorization or excessive requirements, and the government generally respected these rights. Workers have the right to strike, and they exercised it during the year. Unions must register with the Ministry of Interior, a three-month process, or risk a fine.

The labor force of approximately 3.2 million was engaged primarily in subsistence agriculture, with only a small percentage working in the formal wage sector. Although an estimated 75 percent of government workers belonged to labor unions, a much smaller percentage of workers in the private sector were union members.

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

The Merchant Marine Code grants seafarers the right to organize, but they do not have the right to strike.

b. The Right to Organize and Bargain Collectively.—The labor code allows unions to conduct their activities without interference, and the government generally protected this right. The labor code provides for collective bargaining, and workers freely exercised this right with the exception of merchant shipping employees. The government sets wages in the public sector by law and regulation.

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

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The labor code prohibits forced or compulsory labor, including by children; however, such practices occurred in the agricultural, fishing, commercial, and construction sectors, and trafficking in persons was a problem.

The law provides for imprisonment with compulsory labor, and during the year judges sentenced convicts to forced labor for various crimes.

d. Prohibition of Child Labor and Minimum Age for Employment.—The labor code prohibits the employment or apprenticeship of children under 14 years of age in any enterprise; however, children between 12 and 14 years may perform domestic work and temporary or seasonal light work if it does not interfere with their compulsory schooling. Child labor remained a problem due in part to limited government enforcement of the law. To help support their families, children of both sexes—including those as young as seven—continued to work on family farms, in small businesses, on construction sites in urban areas, in public markets as street vendors, and as domestic servants under the practice of *vidomegon*. A majority of children working as apprentices were under the legal age for apprenticeship of 14. For example, in Tchatchegou, a small village in the north, children worked with adults in a granite quarry.

Forced child labor and prostitution by street children were problems. Children under 14 work in either the formal or informal sectors in the following activities: agriculture, hunting and fishing, industry, construction and public works, trade/vending and food/beverage, transportation, and communication and other services, including employment as household staff.

Some parents indentured their children to "agents" recruiting farm hands or domestic workers, often on the understanding that the children's wages would be sent to the parents. In some cases these agents took the children to neighboring countries for labor. Many rural parents sent their children to cities to live with relatives

or family friends to perform domestic chores in return for receiving an education. Host families did not always honor their part of the bargain, and abuse of child domestic servants was a problem.

The Labor Office under the Ministry of Labor and Civil Service enforced the labor code ineffectively and only in the formal sector due to the lack of inspectors. The government took steps to educate parents on the labor code and to prevent compulsory labor by children, including through media campaigns, regional workshops, and public pronouncements on child labor problems. The government also worked with a network of NGOs and journalists to educate the population about child labor and child trafficking. On November 24, the government issued the International Labor Organization's International Program on the Elimination of Child Labor-sponsored National Survey on Child Labor. The survey provided comprehensive data and was expected to help the government complete its National Policy for the Elimination of Child Labor.

e. Acceptable Conditions of Work.—The government set minimum wage scales for a number of occupations. The minimum wage was 30,000 CFA (approximately \$66) per month; however, the minimum wage did not provide a decent standard of living for a worker and family. Many workers had to supplement their wages by subsistence farming or informal sector trade. Most workers in the wage sector earned more than the minimum wage; many domestics and other laborers in the informal sector earned less. The Office of Labor enforced the minimum wage; however, its efforts were impeded by the small number of labor inspectors. Significant parts of the work force and foreign workers were not covered by minimum wage scales.

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

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

BOTSWANA

Botswana, with a population of 1.84 million, has been a multiparty democracy since independence in 1966. Its constitution provides for indirect election of a president and popular election of a National Assembly. On October 16, the ruling Botswana Democratic Party (BDP) won the majority of parliamentary seats in an election deemed generally free and fair. President Ian Khama, who has held the presidency since the resignation of President Festus Mogae in April 2008, retained his position. The BDP has held a majority of National Assembly seats since independence. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, some problems remained, including reports of abuses by security forces, poor prison conditions, lengthy delays in the judicial process, reports of restrictions on press freedom, and restrictions on the right to strike. Societal discrimination and violence against women, and discrimination against children, persons with disabilities, the lesbian, gay, bisexual, and transgender (LGBT) community, persons living with HIV/AIDS, persons with albinism, and members of the San ethnic group, and child labor were problems. The government's continued narrow interpretation of a 2006 High Court ruling resulted in the majority of San originally relocated from the Central Kalahari Game Reserve (CKGR) being prohibited from returning to or hunting in the CKGR.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, there were reports that the government or its agents committed arbitrary or unlawful killings. During the year eight incidents of police shootings during apprehension, in which 11 civilians were

killed, were reported. Of these, police opened four murder cases for investigation, and seven coroner's investigations were opened into the cause of death. The four murder cases were subsequently submitted to the Directorate of Public Prosecution (DPP) for further action and were pending at year's end. Six of the seven coroner's investigations were also forwarded to the DPP for action; two were closed due to lack of evidence and one continued at year's end.

For example, on January 4, police shot and killed Mothusinyana Moag, who reportedly fled from police who confronted him because he fit the description of a suspect; an investigation was in progress at year's end.

On March 4, police shot and killed Mark Gumbo while in pursuit of Gumbo and others suspected of an attempted robbery; an investigation continued at year's end.

On May 9, police shot Tshepo Molefe during an attempted robbery. Police claimed that Molefe or other suspects in the group fired at police and that Molefe ran toward the police officers, who then shot him. An investigation continued at year's end.

On May 13, unidentified government security officers shot and killed John Kalafitas while he sat in a parked car, according to attorneys for the Kalafitas family. The government contended that Kalafitas was a wanted criminal who was killed during a lawful arrest. The case was turned over to the DPP; no further action was taken by year's end.

There were at least two reports of deaths of persons in police custody. On March 5, David Monggae collapsed during interrogation related to accusations of cattle theft and subsequently died. Four police officers present during the interrogation were charged with murder; the case continued at year's end.

On July 29, Italy Setlampoloka was arrested as a suspect in a series of robberies and detained at the Mogoditshane police station. On July 30, Setlampoloka was found dead in an uninhabited area near Mogoditshane. Police officers present during the investigation were charged with murder; the case was ongoing at year's end.

There were no developments in the investigations into the 2008 police killings in which five persons died during apprehension.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution and law prohibit such practices; however, there were reports that security forces occasionally beat and abused suspects to obtain evidence or elicit confessions. No further information was available.

Investigations continued into the October 2008 case in which the Directorate of Intelligence and Security Services (DIS) allegedly tortured four men, including two police officers and two soldiers, after a weapon in their possession went missing.

There were no developments in the 2007 case in which two men stated that threats and beatings were used to obtain their confessions to robbery and murder charges.

Prison and Detention Center Conditions.—Conditions in the country's 22 prisons and two detention centers for illegal immigrants remained poor due to overcrowding. The prison system held approximately 5,170 prisoners as of December, which exceeded the authorized capacity of 4,219. Overcrowding, which was worse in men's prisons, constituted a serious health threat due to the high incidence of HIV/AIDS and tuberculosis. Rape of inmates by inmates occurred. Mistreatment of prisoners is illegal; however, there were reports of abuse during the year.

The Department of Prisons received three complaints of alleged assault by officers during the year. Of these, two incidents were being investigated and one was before the court at year's end; no further information was available.

Mothers were allowed to bring their nursing babies under the age of two with them into the prison system, which lacked maternity facilities. Juveniles were sometimes held with adults due to overcrowding in the two main juvenile prison facilities. In December there were 63 juveniles incarcerated in adult prisons. Pretrial detainees and convicts were held together.

During the year officers of the courts, including magistrates and judges, conducted 13 prison visits to check on prison conditions. Government-appointed welfare and oversight committees visited prisons 45 times during the year. Committee reports were not made public. In previous years the government permitted the International Committee of the Red Cross (ICRC) to visit prison facilities; however, during the year the ICRC did not seek access to prisoners. During the year representatives of the Office of the UN High Commissioner for Refugees (UNHCR) were able to regularly visit prisons and the Center for Illegal Immigrants.

Voluntary and free HIV testing and peer counseling were available to prisoners. As of December, 933 inmates out of the total prison population tested positive for HIV/AIDS, of whom 368 were receiving antiretroviral drug treatment. Two female prisoners were enrolled in the government program to prevent mother-to-child

transmission. The government did not provide antiretroviral treatment to noncitizens in detention; however, those in long-term detention could receive such treatment free from a local nongovernmental organization (NGO).

The prison commissioner had the authority to release terminally ill prisoners in the last 12 months of their sentences and allow citizen prisoners with sentences of 12 months or less to complete their sentences outside the prison by completing an "extramural" work release program at government facilities. To be eligible, prisoners must have served at least half of a short-term sentence and not have been previously incarcerated. Prisoners convicted of violent or other serious felonies were ineligible. By December, to ease overcrowding, 659 prisoners had been released to complete their sentences in the program.

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

Role of the Police and Security Apparatus.—The Botswana Police Service (BPS), under the Ministry for Presidential Affairs and Public Administration, has primary responsibility for internal security. In 2008 the cabinet disbanded the Local Police Service and began merging it with the BPS; previously customary or local police, under the Ministry of Local Government, had law enforcement responsibility in specified tribal areas. The army is responsible for external security and has some domestic security responsibilities.

Police officials acknowledged that corruption was a problem in the lower ranks; some officers took advantage of illegal immigrants and traffic violators. During the year there were 35 police officers arrested for crimes. Of these, courts tried and convicted five, six were reinstated, and 24 were under investigation at year's end.

Civilian authorities generally maintained effective control of the security forces, and the government had effective mechanisms to investigate and punish abuse and corruption, including investigation by police and referral into the criminal court system.

During the year 30 BPS officers received human rights training at the International Law Enforcement Academy located in the country.

Arrest Procedures and Treatment While in Detention.—Police officers must produce an arrest warrant issued by a duly authorized magistrate upon the presentation of compelling evidence, except in certain cases, such as when an officer witnesses a crime being committed or discovers that a suspect is in possession of a controlled substance. In April 2008 the government established the DIS, with the power to enter premises and make arrests without warrants if the agency suspects a person has committed or is about to commit a crime. Elements of civil society continued to criticize the DIS, claiming it was not subject to sufficient independent oversight and posed a potential threat to civil liberties.

Authorities must inform suspects of their rights upon arrest, including the right to remain silent, and must charge them before a magistrate within 48 hours. Authorities generally respected these rights in practice; however, there were allegations in the media and by defense attorneys that the right to an attorney was often denied during the first 48 hours after arrest, prior to the suspect being brought before a magistrate. A magistrate may order a suspect held for 14 days through a writ of detention, which may be renewed every 14 days. The law provides for a prompt judicial determination of the legality of a person's detention. However, this determination was occasionally delayed in practice. Detainees were generally informed of the reason for their detention, although there were complaints that this did not always occur. A bail system functions, and detention without bail was unusual except in murder cases, where it is mandatory. Detainees have the right to contact a family member and to hire an attorney of their choice; however, in practice most could not afford legal counsel. The government provides counsel for the indigent only in capital cases, although attorneys are required to accept pro bono clients.

Pretrial detainees waited from several weeks to several months between the filing of charges and the start of their trials. As of December, of the 5,170 persons in custody, 1,441 were pretrial detainees. Pretrial detention in murder cases sometimes lasted beyond one year. Such delays were largely due to judicial staffing shortages.

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary, and the government generally respected judicial independence in practice. The civil courts remained unable to provide timely trials due to severe staffing shortages and a backlog of pending cases. A 2005 report by the Office of the Ombudsman characterized the "delays in the finalization of criminal matters in all courts" as a "serious concern," particularly the delays in processing appeals.

The civil court system includes magistrates' courts, an industrial court, a court of appeal, and the High Court. A customary or traditional court system also exists. A small claims court was established during the year in Gaborone and some sur-

rounding areas; there were some reports of heavy case loads and new procedures impacting the courts' effectiveness.

Trial Procedures.—Defendants enjoy a presumption of innocence. Trials in the civil courts are public, although trials under the National Security Act may be held in secret. There is no jury system. Defendants have the right to be present and consult with an attorney in a timely manner, but the state provides an attorney only in capital cases. Those charged with noncapital crimes are tried without legal representation if they cannot afford an attorney. As a result many defendants were not informed of their rights in pretrial or trial proceedings. Defendants can question witnesses against them and have access to government-held evidence relevant to their cases. Defendants can present witnesses and evidence on their own behalf. Defendants have the right to appeal. The constitution asserts that all citizens enjoy these rights.

Several organizations such as the Botswana Law Society and the Botswana Network on Ethics, Law, and HIV/AIDS provided free legal services but had limited capacity. The University of Botswana Legal Assistance Center provided free legal services for some civil, but not criminal, matters.

Although customary or traditional courts enjoy widespread support and citizen respect, they often did not afford the same due process protections as the formal court system. Defendants do not have legal counsel, and there are no standardized rules of evidence. Defendants can confront, question, and present witnesses in customary court proceedings. Customary trials are open to the public, and defendants can present evidence on their own behalf. Tribal judges, appointed by the tribal leader or elected by the community, determine sentences, which may be appealed through the civil court system. Many judges were poorly trained and ill-equipped to make legal decisions. The quality of decisions reached in the customary courts varied considerably and often lacked a presumption of innocence. In some cases tribal judges may issue sentences that include corporal punishment such as lashings on the buttocks.

There is a separate military court system; military courts do not try civilians. Military courts have separate but similar procedures from civil courts.

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

Civil Judicial Procedures and Remedies.—In the formal judicial system, there is an independent and impartial judiciary in civil matters, which includes a separate industrial court for most labor-related cases. Administrative remedies were not widely available.

Most civil cases were tried in customary courts. These courts handled land, marital, and property disputes and often did not afford due process.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and law prohibit such actions, and the government generally respected these prohibitions in practice. However, the government's continued narrow interpretation of a 2006 High Court ruling resulted in the majority of San being prohibited from living or hunting in the CKGR. In 2002 the government forcibly resettled the remaining indigenous San and other minority members living in the CKGR who had not voluntarily left in resettlement sites outside the reserve. Government officials maintained that the resettlement program was voluntary and necessary to facilitate the delivery of public services, provide socioeconomic development opportunities to the San, and minimize human impact on wildlife (see section 6).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution and law provide for freedom of speech and of the press, and the government generally respected freedom of speech in practice. The Media Institute of Southern Africa (MISA) and other NGOs reported that the government attempted to limit press freedom and continued to dominate domestic broadcasting. Individuals could generally criticize the government publicly or privately without reprisal.

In December 2008 parliament passed the Media Practitioners' Act, which established a new media council to register and accredit journalists, promote ethical standards among the media, and receive public complaints. Some NGOs, including MISA, the independent media, and opposition members of parliament continued to criticize the law, stating that it restricted press freedom and was passed without debate after consultations between the government and stakeholders collapsed.

The government owned and operated the Botswana Press Agency, which dominated the media through its free, nationally distributed Daily News newspaper and through two FM radio stations. State-owned media generally featured uncritical re-

porting on the government and were susceptible to political interference. Opposition political parties claimed that state media coverage heavily favored the ruling party.

The independent media were active and generally expressed a wide variety of views, which frequently included strong criticism of the government; however, members of the media stated they were sometimes subject to government pressure to portray the government and the country in a positive light. It was sometimes more difficult for private media organizations to obtain access to government-held information.

Radio continued to be the most broadly accessible medium. Government-owned Radio Botswana and Radio Botswana 2 covered most of the country. Privately owned Yarona FM, Gabz FM, and Duma FM expanded their broadcasts from Gaborone to cover most of the major towns. They produced news and current affairs programs without government interference.

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

Some members of civil society organizations alleged that the government occasionally censored stories that it deemed undesirable and that government journalists sometimes practiced self-censorship.

In 2007 the NGO First People of the Kalahari (FPK) reported the government would allow the FPK to have two-way radios in the CKGR provided it followed licensing requirements. However, as of December the FPK had not completed licensing requirements due to inability to afford the annual 1,500 pula (approximately \$227) licensing fee.

In 2007 the government required 17 foreigners, including seven journalists who had written articles critical of the government, to apply for visas prior to entry even though they were from countries generally exempt from this requirement. The requirements continued during the year.

Internet Freedom.—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Internet access was most common in large urban areas but began to expand to smaller cities and some rural areas. According to International Telecommunication Union statistics for 2008, approximately 6.25 percent of the country's inhabitants used the Internet. However, there were some reports during the year that the figure was higher.

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

b. Freedom of Peaceful Assembly and Association.—The constitution and law provide for freedom of assembly and association, and the government generally respected these rights in practice.

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

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

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The government restricted the ability of indigenous San who had been relocated from the CKGR to designated settlement camps in 2002 to return to the reserve. Only the 189 San named in a 2006 High Court case, their spouses, and their minor children were permitted to live in the CKGR. A few San had never left the reserve, and some San moved back to the CKGR after the High Court's decision. Many of the 189 did not return to live in the CKGR, as lack of water made the CKGR an extremely inhospitable environment, and some who initially returned left again. The government was not required to provide water in the CKGR per the 2006 ruling (see sections 1.f and 6). Visitors to the reserve, including relocated former residents not named in the 2006 case, must obtain a permit to enter the CKGR.

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

Protection of Refugees.—The country is a party to the 1951 Convention relating to the Status of Refugees, the 1967 Protocol relating to the Status of Refugees, and

the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. The government has established a system for providing protection to refugees. The government granted refugee status or asylum. The government's system for granting refugee status was accessible but slow. In practice the government provided protection against the expulsion or return of persons to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention or the 1967 Protocol. During the year fewer than 100 persons were granted refugee status. The government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

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

Approximately 600 of the country's 3,500 registered refugees were living and working outside Dukwe Camp at the beginning of the year. Since 1997 the government had allowed refugees to apply for special residency permits to live and work outside of the camp for a one-year period with the possibility of renewal. In June the government decided to restrict the ability of registered refugees to live and work outside the camp. The Ministry of Defense, Justice, and Security informed the refugees that their permits would not be renewed and that they would receive assistance with returning to the camp on a rolling basis as permits expired and circumstances allowed, including completion of school terms for children. The government stated that in some exceptional cases, such as for refugees enrolled in higher education or with "unique skills," residence outside the camp would be permitted. By year's end 95 refugees had returned to Dukwe.

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

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

Elections and Political Participation.—On October 16, the ruling BDP won the majority of National Assembly seats in a general election deemed by international and domestic observers to be generally free and fair. President Ian Khama, who has held the presidency since April 2008, when former president Festus Mogae resigned, retained his position. However, the ruling BDP received preferential access to state-owned television during much of the campaign. The BDP won 45 of 57 competitive National Assembly seats, the Botswana National Front won six, the Botswana Congress Party won five, and an independent candidate won one seat. The BDP has won a majority of seats in the National Assembly in every election since independence. There are also four additional specially elected National Assembly members who are nominated and elected by parliament.

The House of Chiefs acts as an advisory upper chamber to the National Assembly on any legislation affecting tribal organization and property, customary law, and the administration of customary courts. It consists of eight paramount chiefs, five chiefs chosen by the president, and 22 elected chiefs from designated regions. The paramount chiefs are members of the House of Chiefs for life, while the chosen and elected chiefs serve five-year terms. The first election based on 2006 amendments to the constitution to expand the House of Chiefs was held in 2006.

Political parties operated without restriction or outside interference.

There were four women in the 61-seat National Assembly, a female speaker of the National Assembly, four women in the 24-member cabinet, and four women in the 35-seat House of Chiefs.

While the constitution formally recognizes eight principal ethnic groups of the Tswana nation, amendments to the constitution also allow minority tribes to be represented in the expanded House of Chiefs. By law members of all groups enjoy equal rights, and minority tribes have representation that is at least equal to that of the eight principal tribes.

Section 4. Official Corruption and Government Transparency

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

There are no formal financial disclosure laws. However, in October a presidential directive required all cabinet ministers to declare interests, assets, and liabilities to the president. Critics contended that the policy did not go far enough to promote transparency and that financial declarations by senior government officials should be available to the public.

During the year the Directorate on Corruption and Economic Crime (DCEC) initiated investigations into 39 suspicious transactions; at year's end 18 remained under investigation and 21 were concluded. Of these, 18 cases were dismissed after allegations of illegal conduct were disproved, and three cases were dismissed for insufficient evidence.

Through December police initiated 22 investigations of alleged corruption involving police officers; all 22 continued at year's end. An additional 18 police officers were dismissed during the year for failure to adhere to the code of conduct.

The four police corruption cases from 2008 concluded with all four officers being convicted and fired.

In April the National Assembly enacted an antimoney laundering law entitled the Financial Intelligence Act. Until the new Financial Intelligence Agency, as provided for under the act, is fully functional, the DCEC has responsibility for investigating suspected instances of money laundering and has the authority to demand access to bank records during an investigation.

The law does not provide for public access to government information, and the government generally restricted such access. Information that is made public is available for a fee from the Government Printing Office.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to NGO views on most subjects but were considerably less open to the involvement of some international NGOs on the issue of the CKGR relocations. The government interacted with and provided financial support to some domestic organizations. Independent local human rights groups included Childline, a child welfare NGO; Emang Basadi, a women's rights group; the Botswana Network on Ethics, Law, and HIV/AIDS; and DITSHWANĒLO, the Botswana Center for Human Rights.

In 2007 the government placed visa requirements on certain foreign NGO workers, a practice which continued during the year.

During the year the government worked cooperatively with international organizations, including the ICRC and UN. The government allowed visits from UN representatives and representatives from human rights and humanitarian organizations such as the ICRC.

An independent, autonomous ombudsman handled complaints of administrative wrongdoing in the public sector, and the government generally cooperated with the ombudsman. The office suffered from a shortage of staff, and public awareness of the office and its services was low.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law prohibit governmental discrimination on the basis of ethnicity, race, nationality, creed, sex, or social status, and the government generally respected these provisions in practice. So long as a job applicant is able to perform the duties of the position, the government may not discriminate against him or her due to disability or language. However, the law does not prohibit discrimination by private persons or other entities, and there was societal discrimination against women; persons with disabilities; minority ethnic groups, particularly the San; persons with HIV/AIDS; persons with albinism; and gay persons.

Women.—The law prohibits rape but does not recognize spousal rape as a crime. Laws against rape were effectively enforced; however, police noted that victims often declined to press charges against the perpetrators, and statistics on prosecutions

and convictions were unavailable. The number of reported rape cases increased during the year from 1,360 to 1,539. However, it was unclear whether this was a result of increased reporting due to NGO efforts to improve awareness of the crime or an increase in the number of rapes. By law the minimum sentence for rape is 10 years in prison, increasing to 15 years with corporal punishment if the offender is HIV-positive, and 20 years' imprisonment with corporal punishment if the offender was aware of having HIV-positive status. Corporal punishment was used more often in the customary courts and typically consisted of strokes to the buttocks with a stick. A person convicted of rape is required to undergo an HIV test before being sentenced. However, police lacked basic investigative techniques in rape cases.

The law does not specifically prohibit domestic violence against women, and it remained a serious problem. Police did not keep statistics for the specific category of domestic violence, as it is not considered a crime under the penal code. Customary law allows husbands to treat their wives in the same manner as minor children. Under customary law husbands may use corporal punishment to discipline their wives, which was common in rural areas. Greater public awareness resulted in increased reporting of domestic violence and sexual assault.

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

The law prohibits sexual harassment in both the private and public sectors. Sexual harassment committed by a public official is considered misconduct and is punishable by termination with or without forfeiture of all retirement benefits, suspension with loss of pay and benefits for up to three months, reduction in rank or pay, deferment or stoppage of a pay raise, or a reprimand. However, sexual harassment continued to be a widespread problem, particularly by men in positions of authority, including teachers, supervisors, and older male relatives.

Couples and individuals have the right, and were able in practice, to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. Contraception is widely available. According to the Population Reference Bureau, skilled attendance during childbirth averaged 94 percent across the country, with higher rates in urban areas. Obstetric and postpartum care was generally available, and women had equal access to testing for sexually transmitted diseases. The government's Prevention of Mother to Child transmission program for HIV curtailed such transmission.

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

Skilled urban women had increasing access to entry- and mid-level white collar jobs. According to a 2007 Grant Thornton International Business Report, 74 percent of businesses employed women in senior management positions, and women occupied 31 percent of such positions. Women occupied many senior-level positions in government agencies, such as speaker of the General Assembly, governor of the Bank of Botswana, attorney general, minister of in the Office of the President, minister of education and skills development, director of public prosecution, and numerous permanent secretary positions. However, a 2007 UN report found that women's political participation was not equal to that of men. In March 2008 the Botswana Defense Force (BDF) began to allow women to serve in the military. In November 2008 the first class of Botswana female officer candidates completed their training in Tanzania and joined the BDF. During the year women were included as officer candidates in the first integrated training class to be conducted in Botswana.

The Women's Affairs Department in the Ministry of Labor and Home Affairs has responsibility for promoting and protecting women's rights and welfare. The department provided grants to NGOs working on women's matters. During the year a local

NGO reported that women were increasingly able to access credit and be paid as much as their male counterparts for similar work.

Children.—The law provides for the rights and welfare of children, and the government respected these rights in practice. In general, citizenship is derived from one's parents, although there are very limited circumstances in which citizenship can be conveyed from birth within the country's territory. The government generally registers births immediately; however, there were some delays in the most remote locations. Unregistered children may be denied some services provided by the government.

The government continued to allocate the largest portion of its budget to the Ministry of Education. The Ministry of Local Government distributed books and other materials for primary education and food. Education was not compulsory. In 2006 the government reintroduced school fees. The fees could be waived for children whose family income fell below a certain amount. The government also provided uniforms, books, and fees for students whose parents were destitute. Students in remote areas received two free meals a day at school. Girls and boys attended school at similar rates. School attendance and completion rates were highest in urban areas, where transportation was readily available, and lowest in rural areas, where children often lived far from schools and often assisted their families as cattle tenders, domestic laborers, and child care providers.

No law specifically prohibits child abuse. Sex with a child younger than 16 is known as defilement and is prohibited and punishable by a minimum of 10 years of incarceration. Police reported that through the end of September there were 1,197 reported cases of rape, 350 cases of defilement, four cases of incest, 93 cases of indecent assault on girls, and two cases of indecent assault on boys. There were defilement investigations and convictions during the year, but detailed statistics were unavailable. Sexual abuse of students by teachers was reported to be a problem. Children were sometimes sexually abused by the extended family members with whom they lived. The law considers incest a punishable act only if it occurs between blood relatives.

Child marriage occurred infrequently and was largely limited to certain ethnic groups. Marriages that occur when either party is under the legal age of 18 are not recognized by the government.

Child prostitution and pornography are criminal offenses. Media and NGO reports indicated that prostituted children had been made available to truck drivers along the main road linking the country with South Africa and that many of the girls and boys were thought to be orphans.

There were reports of child labor. Of the children employed, approximately half were below the legal working age of 14. Two-thirds of employed children were working in rural villages, and more than 60 percent worked in the agricultural sector, mostly on a subsistence level on family cattle posts or farms.

In 2005 the UN Children's Fund estimated there were 150,000 orphans in the country, of whom approximately 120,000 had lost one or both parents due to HIV/AIDS. During the year the government registered 58,000 children as orphans, a discrepancy that was due to the government's use of a more restrictive definition of orphan, which required both parents to be deceased, than the one used by the UN. Once registered, the children received clothes, shelter, a monthly food basket worth between 216 pula (approximately \$33) and 350 pula (\$53) depending upon location, and counseling as needed. Some relatives continued to deny inheritance rights to orphans.

Trafficking in Persons.—The law does not prohibit trafficking in persons, although penal code provisions cover related offenses such as abduction and kidnapping, slave trafficking, and procuring women and girls for the purpose of prostitution. There were reports that persons were trafficked to, from, through, or within the country. The country was a source, transit, and, to a lesser extent, destination country for men, women, and children trafficked for the purpose of forced labor and sexual exploitation. Children were trafficked internally for domestic servitude and cattle herding. According to one NGO, women reported being forced into commercial sexual exploitation at safari lodges. The country was a staging area for both the smuggling and trafficking of third-country nationals, primarily from Namibia and Zimbabwe, to South Africa. Zimbabweans were also trafficked into Botswana for forced labor as domestic servants. Residents most susceptible to trafficking were illegal immigrants from Zimbabwe, unemployed men and women, those living in rural poverty, agricultural workers, and children orphaned by HIV/AIDS.

Traffickers charged with kidnapping or abduction could be sentenced to seven years' imprisonment. However, the government did not prosecute, convict, or punish any trafficking offenses during the year.

The government funded and otherwise supported NGO programs that provided assistance and services to victims of general crimes that were also accessible to victims of trafficking. Authorities, in partnership with other governments in the region, assisted the safe repatriation of a trafficking victim to the victim's country of origin.

The government placed antitrafficking education posters at all of its border posts and included trafficking awareness segments in some of its law enforcement training sessions.

The State Department's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The law prohibits discrimination against persons with disabilities in education, employment, access to health care, or the provision of other state services. The government has a national policy that provides for integrating the needs of such persons into all aspects of government policymaking. The government mandated access to public buildings and access to transportation for persons with disabilities. However, although new government buildings were being built to ensure access for such persons under the supervision of the Ministry of Works, most older government buildings remained inaccessible. There was some discrimination against persons with disabilities, and employment opportunities remained limited. The government did not restrict persons with disabilities from voting or participating in civil affairs, and some accommodations were made during elections to allow such persons to vote.

The Ministry of Labor and Home Affairs is responsible for ensuring that the rights of persons with disabilities are protected and investigating claims of discrimination. Individuals can also bring cases directly to the Industrial Court. The government funded NGOs that provided rehabilitation services and supported small-scale projects for workers with disabilities.

Indigenous People.—The country's estimated 50,000 to 60,000 San represented approximately 3 percent of the population. The San are culturally and linguistically distinct from most of the population. By law discrimination against the San with respect to employment, housing, health services, and cultural practices is illegal. However, they remained economically and politically marginalized and generally did not have access to their traditional land. The San continued to be isolated, had limited access to education, lacked adequate political representation, and were not fully aware of their civil rights. In 2002 the government forcibly resettled San who were living in the CKGR to the settlement areas of Kaudwane, New Xade, and Xere.

While the government respected the 2006 High Court ruling on a suit filed by 189 San regarding their forced relocation, it continued to interpret the ruling to allow only the 189 actual applicants and their spouses and minor children, rather than all San affected by the relocations, to return to the CKGR. The court ruled the applicants were entitled to return to the CKGR without entry permits and to receive permits to hunt in designated wildlife management areas that are not located in the CKGR. The court also ruled the government was not obligated to resume providing services within the CKGR, and during the year the government did not reopen water wells in the CKGR. Many of the San and their supporters continued to object to the government's narrow interpretation of this ruling. In November a small group of San filed a lawsuit that sought to require the government to open a water well at a specific location inside the CKGR. The San contended that a well had existed at this location previously, but the government denied this. Government sources confirmed that negotiations with San representatives on residency, water, and hunting rights continued at year's end.

During the year the government arrested several San for illegally hunting in the CKGR. Although the law allows for a sentence including a fine or prison term for those found guilty of illegal hunting, none of the San arrested during the year were sanctioned.

During the year there were no government programs directly addressing discrimination against the San. With the exception of the 2006 court ruling, there were no demarcated cultural lands.

A number of NGOs made efforts to promote the rights of the San or to help provide economic opportunities. However, the programs had limited impact. The NGO Survival International, along with other independent organizations, continued to criticize the decision by the diamond company De Beers to restart exploration in the CKGR. The NGOs argued that diamond exploration in the CKGR had a devastating impact on the life and environment of the San.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The law does not criminalize sexual orientation. However, the law does criminalize "unnatural acts" which was widely believed to include homosexual conduct. Police did not target homosexual activity, and during the year there

were no reports of violence against persons due to their sexual orientation or gender identity. However, there were reports of societal discrimination and harassment of members of the LGBT community. The independent organization LEGABIBO (Lesbians, Gays, and Bisexuals of Botswana) attempted to register as an advocacy NGO; however, the government refused to register it.

Other Societal Violence or Discrimination.—Discrimination against persons with HIV/AIDS continued to be a problem, including in the workplace. The government funded community organizations that ran antidiscrimination and public awareness programs. The Botswana Network on Ethics, Law, and HIV/AIDS continued to advocate for an HIV employment law to curb discrimination in the workplace.

While persons with albinism were subject to some social discrimination, individuals were generally able to exercise their rights in practice.

Section 7. Worker Rights

a. The Right of Association.—The law allows workers, except for police officers, the BDF, and the prison service, to form and join unions of their choice without excessive requirements, and workers exercised this right in practice. Most public sector associations have converted to unions. The industrial or wage economy was small, and unions were concentrated largely in the public sector, mineral extraction, and to a lesser extent in the railway and banking sectors. The law requires that an organization have more than 30 employees to form a trade union.

The law severely restricts the right to strike, and virtually all strikes are ruled illegal, leaving striking workers at risk of dismissal. Legal strikes theoretically are possible only after an exhaustive arbitration process. Sympathy strikes are prohibited.

The 2006 case regarding the copper mine's dismissal of 178 workers for striking that was dismissed by a lower court was appealed during the year; the Industrial Court had not heard the appeal by year's end.

In 2008 the Industrial Court dismissed a 2005 case in which 461 workers were fired in 2004 after a strike against their employer, Debswana, the joint government-DeBeers diamond mine venture. The court found that the case was not tried in a timely fashion. The 461 former employees appealed the dismissal; however, the dismissal was upheld.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law provides for collective bargaining for unions that have enrolled 25 percent of an organization's labor force.

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

Workers may not be fired for legal union-related activities; however, unregistered trade unions are not protected against antiunion discrimination. Dismissals on other grounds may be appealed to civil courts or labor officers, which rarely ordered more than two months' severance pay.

The country's export processing zone (EPZ) exists on paper only. There are no special laws or exemptions from regular labor laws in the EPZ.

c. Prohibition of Forced or Compulsory Labor.—The constitution and law prohibit forced and compulsory labor, including by children; however, there were reports that such practices occurred.

According to one NGO, women reported being forced into commercial sexual exploitation at safari lodges, and some Zimbabwean women reported being exploited by employers for forced labor. Children were trafficked internally for domestic servitude and cattle herding.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law sets the minimum age for basic employment at 14 years. Only an immediate family member may employ a child age 13 or younger, and no juvenile under age 14 may be employed in any industry without permission from the commissioner of labor. Children 14 years old who are not attending school may be employed by family members in light work that is not considered hazardous or as approved by the labor commissioner, but for no more than six hours a day or 30 hours a week. In industrial settings those under age 15 may only work up to three consecutive hours without the labor commissioner's approval, and those between ages 15 and 18 may work only up to four consecutive hours without such approval. Those under 18 may not be employed in work underground, at night, in work that is harmful to health and development, or in work that is dangerous or immoral. The law provides that adopted children may not be exploited for labor and protects orphans from exploitation or coercion into prostitution.

According to the 2005-06 labor survey, slightly fewer than 38,000 children between the ages of seven and 17 were employed in the formal sector in 2006. Approximately half of those employed were younger than 14. More than 60 percent of employed children worked in agriculture, 20 percent in retail trade, and 4 percent in private homes. Children also worked as domestic laborers, prostitutes, and in informal bars. Outside of supermarkets they sometimes assisted truck drivers with unloading goods and carried bags for customers. Many orphans also left school to work as caregivers for sick relatives. Most employed children worked up to 28 hours per week.

The Ministry of Labor and Home Affairs was responsible for enforcing child labor laws and policies, and it was generally effective, despite limited resources for oversight of remote areas of the country. District and municipal councils have child welfare divisions, which are also responsible for enforcing child labor laws. Other involved government entities included offices of the Ministry of Education and the Ministry of Local Government. Oversight of child labor issues was facilitated through the Advisory Committee on Child Labor, which included representatives of various NGOs, government agencies, workers' federations, and employers' organizations. During the year there were no prosecutions, convictions, or fines levied for illegal child labor.

The government supported and worked with partners to conduct workshops to raise awareness of child labor. The Department of Labor partnered with the Department of Social Services to advocate against and raise awareness of exploitative child labor.

e. Acceptable Conditions of Work.—The minimum hourly wage for most full-time labor in the private sector was 3.80 pula (approximately \$0.58), which did not provide a decent standard of living for a worker and family. The cabinet determined wage policy based on recommendations from the National Economic, Manpower, and Incomes Committee, which consists of representatives of the government, private sector, and the Botswana Federation of Trade Unions. The Ministry of Labor and Home Affairs was responsible for enforcing the minimum wage, and each district had at least one labor inspector.

Formal sector jobs generally paid well above minimum wage levels. Informal sector employment, particularly in the agricultural and domestic service sectors, where housing and food were provided, frequently paid below the minimum wage. In March the Ministry of Labor and Home Affairs introduced new minimum wages for workers in the agricultural and domestic sectors; the wages took effect on April 1. The minimum wage for domestic workers was 2 pula (approximately \$0.30) per hour. Workers in the agricultural sector were required to be paid 408 pula (\$62) per month; however, the cost of feeding a worker who lived on the employer's premises could be deducted from the wage.

The law permits a maximum 48-hour workweek, exclusive of overtime, which is payable at time-and-a-half. The law does not specifically mandate rest periods or prohibit excessive compulsory overtime. Most modern private-sector jobs had a 40-hour workweek; the public sector, however, had a 48-hour workweek. The labor law applies to farm and migrant workers. The Department of Labor had inspectors to enforce labor regulations; however, the number was insufficient to conduct inspections fully.

The government's ability to enforce workplace safety legislation remained limited by inadequate staffing and unclear jurisdictions among different ministries. Nevertheless, there are limited requirements for occupational safety in the Employment Act, and employers in the formal sector generally provided for worker safety.

The law provides that workers who complain about hazardous conditions may not be fired, and authorities in the Ministry of Labor and Home Affairs effectively enforced this right.

BURKINA FASO

Burkina Faso is a parliamentary republic with a population of 14.25 million. In 2005 President Blaise Compaore was reelected to a third term with 80 percent of the vote. Observers considered the election generally free, despite minor irregularities, but not entirely fair due to the ruling party's control of official resources. The president, assisted by members of his party, the Congress for Democracy and Progress (CDP), continued to dominate the government. The CDP won a majority in the 2007 legislative elections, which observers declared generally free and orderly despite irregularities, including fraud involving voter identification cards. While ci-

vilian authorities generally maintained effective control of the security forces, there were instances in which elements of the security forces acted independently.

The following human rights problems were reported: security force use of excessive force against civilians, criminal suspects, and detainees; arbitrary arrest and detention; abuse of prisoners and harsh prison conditions; official impunity; judicial inefficiency and lack of independence; occasional restrictions on freedom of the press and assembly; official corruption; violence and discrimination against women and children, including female genital mutilation; trafficking in persons, including children; discrimination against persons with disabilities; and child labor.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, on September 6, prison guards shot and killed six prisoners and severely injured eight while trying to quell a prisoner protest against preferential treatment for wealthier prisoners. The Burkinabe Movement for the Emergence of Social Justice demanded an investigation; however, no action had been taken by year's end.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the constitution and law prohibit such practices, members of the security forces continued to abuse persons with impunity, and suspects were frequently subjected to beatings, threats, and occasionally torture to extract confessions.

Forcible dispersions of protesters engaged in violent demonstrations resulted in numerous injuries during the year (see section 2.b.).

On September 21, following an altercation between local youths and police cadets, more than 100 cadets of the National School of Police in Ouagadougou (ENP) beat residents with military belts and ransacked local businesses in the Gounghin neighborhood, resulting in numerous injuries and property damage. The rampage continued until police and gendarmes returned the students to their barracks. The minister of security, who apologized to the victims and promised a full investigation, announced a few days later that all the cadets involved in the incident had been expelled from ENP and that their scholarships would be used to compensate residents for damages.

In 2008, following an investigation and trial, the Military Court acquitted eight of the 10 soldiers accused of the 2007 assault, battery, and destruction of private property of residents in Banfora, Comoé Province. One soldier received a suspended sentence and was released the day of his arrest, and another served a six-month prison term.

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

Deaths from prison conditions or neglect occurred, according to human rights organizations. According to medical reports, 17 prisoners died of natural causes during the year, and human rights activists suspected that most of these deaths were due to harsh prison conditions.

There were 5,082 persons incarcerated throughout the country, including 104 women and 180 minors. Of these, 2,501, including 58 women and 116 minors, were in pretrial detention.

Prison authorities generally granted permission to visit prisons and did not require advance permission. This permission extended to local and international human rights groups, the media, and International Committee of the Red Cross. There were no reports during the year of prison visits by international organizations; however, during the year members of local nongovernmental organizations (NGOs), foreign embassies, and the press visited prisons.

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

Role of the Police and Security Apparatus.—The national police, under the Ministry of Security, and the municipal police, under the Ministry of Territorial Administration, are responsible for public security. Gendarmes report to the Ministry of Defense and are responsible for some aspects of public security.

Corruption was widespread, particularly among lower levels of the police and gendarmerie. The 2007 report by the NGO National Network to Fight against Corruption (RENLAC) stated that the police and gendarmerie were among the most cor-

rupt institutions in the country. Corruption and official impunity were also serious problems in the military. The gendarmerie is responsible for investigating abuse by police and gendarmes; however, the government took no known disciplinary action against those responsible for abuses, and the climate of impunity created by the government's inaction remained the largest obstacle to reducing abuses. In contrast with the previous year, the Human Rights Ministry did not conduct any seminars to educate security forces on human rights standards.

Human rights associations believed that security forces were not effective in responding to societal violence. A lack of financial and human resources and a complicated procedure to make security forces take action were serious impediments to preventing or responding to societal violence. For example, security forces were not effective in addressing incidents between Fulani herders and the Mossi, Gourounchi, and Gourmanche farmers or cases in which elderly women were expelled from their homes or villages following accusations of witchcraft.

Arrest Procedures and Treatment While in Detention.—By law police must possess a warrant to search or arrest, arrests must be made openly, and warrants must be based on sufficient evidence and signed by a duly authorized official. However, authorities did not always respect this process. Detainees were promptly informed of charges against them. The law provides for the right to expeditious arraignment, bail, access to legal counsel after a detainee has been charged before a judge or, if indigent, access to a lawyer provided by the state after being charged; however, these rights were seldom respected. The law does not provide for access to family members, although detainees were generally allowed such access.

On December 7, police arrested 26 high school students in Ouagadougou who were commemorating the anniversary of the 2000 killing by security forces of 12-year-old Flavien Nebie in Bousse, Kouweogo Province, and demanding punishment for the perpetrators. Police released seven of the students without charges but charged the remaining students with illegal demonstration and drug possession. At the conclusion of a December 22 trial, the justice officials acquitted the defendants for lack of sufficient evidence.

The law limits detention without charge for investigative purposes to a maximum of 72 hours, renewable for a single 48-hour period; however, police rarely observed these restrictions. The average time of detention without charge (preventive detention) was one week; however, the law permits judges to impose an unlimited number of six-month preventive detention periods, and defendants without access to legal counsel were often detained for weeks or months before appearing before a magistrate. Government officials estimated that 23 percent of prisoners nationwide were in pretrial status. In some cases detainees were held without charge or trial for longer periods than the maximum sentence they would have received if convicted of the alleged offense. There was a pretrial release (release on bail) system; however, the extent of its use was unknown.

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

There are four operational higher courts: the Supreme Court of Appeal, the Council of State, the Audit Court and Office, and the Constitutional Council. Beneath these higher courts are two courts of appeal and 24 provincial courts. There is also a High Court of Justice with jurisdiction over the president and other senior government officials. Tribunals in Ouagadougou and Bobo-Dioulasso try juveniles under 18. The Military Court tries only military cases and provides rights equivalent to those in civil criminal courts.

Traditional courts in rural areas were abolished in 1984 and no longer have any legal standing. However, many traditional chiefs were still highly influential in rural areas and could, for example, keep women from exercising their rights.

Women continued to occupy a subordinate position and experienced discrimination in education, the workplace, property ownership, access to credit, management or ownership of a business, and family rights. Although the law provides equal property rights for women and, depending on other family relationships, inheritance benefits, in practice traditional law denied women the right to own property, particularly real estate. In rural areas, land belonged to the family of a woman's husband.

Many citizens, particularly in rural areas, held to traditional beliefs that did not recognize inheritance rights for women and regarded women as property.

Trial Procedures.—Trials are public but juries are not used. Defendants are presumed innocent and have the right to legal representation and consultation. Defendants have the right to be present at their trials, to be promptly informed of charges against them, to provide their own evidence, and to access government-held evidence. Defendants can challenge and present witnesses and have the right of appeal. If indigent, they have the right to a lawyer provided by the state. However, these rights were seldom respected. In addition, popular ignorance of the law and a continuing shortage of magistrates limited the right to a fair trial.

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

Civil Judicial Procedures and Remedies.—There is an independent judiciary in civil matters; however due to the corruption and inefficiency of the judiciary, citizens sometimes preferred to rely on the ombudsman to settle disputes with the government. The law provides for access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation, and both administrative and judicial remedies were available for alleged wrongs. However, there were problems enforcing court orders when they concerned sensitive cases.

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

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution and law provide for freedom of speech and of the press; however, the government partially limited press freedom and intimidated journalists into practicing self-censorship.

In general citizens and the press could criticize the government without reprisal. However, journalists were occasionally sued by the government or a progovernment political figure under a law that defines libel in excessively broad terms. Government agents sometimes infiltrated political meetings and rallies to impede criticism.

The official media, including the daily newspaper *Sidwaya* and the government-controlled radio and television stations, displayed a progovernment bias but allowed significant participation in their programming from those representing opposition views. There were numerous independent newspapers and radio and television stations, some of which were highly critical of the government. Foreign radio stations broadcast without government interference.

All media were under the administrative and technical supervision of the Ministry of Culture, Tourism, and Communications, and the Spokesman of the Government. The Superior Council of Communication (SCC), which is under the Office of the President and has limited independence, also regulates the media. The Ministry of Culture, Tourism, and Communications is responsible for developing and implementing government policy and projects concerning information and communication. The SCC oversees the content of radio and television programs and newspapers to ensure that they adhere to professional ethics and government policy governing information and communication. The SCC may summon a journalist to attend a hearing about his work, followed by a warning that it will not tolerate a repeat of “non-compliant behavior”; journalists received such summons during the year. Hearings may concern alleged libel, disturbing the peace, or violations of state security.

The government’s definition of libel is broad. Political and business figures used libel suits to pressure journalists who produce unflattering press coverage of them or their organizations.

Internet Freedom.—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. However, poverty and the high rate of illiteracy limited public access to the Internet. According to International Telecommunication Union statistics for 2008, approximately 0.92 percent of the country’s inhabitants used the Internet.

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

b. Freedom of Peaceful Assembly and Association.—*Freedom of Assembly.*—Although the constitution and law provide for freedom of assembly, the government

at times restricted this right. Unlike in the previous year, no deaths or injuries resulted from police use of excessive force to disperse demonstrators. No action was taken against security forces responsible for demonstrator deaths and injuries in 2008.

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

On December 7, police used force to disperse a high school student demonstration in Ouagadougou (see section 1.d.).

On January 16, opposition leader Thibaut Nana was released from prison; in March 2008 Nana was sentenced to 36 months' imprisonment for organizing a February 2008 demonstration against fuel and food prices in which numerous demonstrators were injured as a result of police use of excessive force.

Freedom of Association.—The constitution and law provide for freedom of association, and the government generally respected this right. Political parties and labor unions could organize without government permission.

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

Religious groups must register with the Ministry of Territorial Administration, and failure to register may result in a fine. The government routinely approved registration applications.

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

For a more detailed discussion, see the 2008 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The government required travel documents, such as identification cards, for regional travel.

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

Protection of Refugees.—Burkina Faso is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol and to the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government granted refugee or asylum status and also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention or the 1967 protocol; during the year 1,116 persons received temporary protection.

In June the government organized a series of workshops in Bobo-Dioulasso and Ouagadougou to inform, educate, and sensitize law enforcement officials, including security forces and local authorities, to the principles of nonrefoulement, non-discrimination, and international protection for refugees.

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

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

Elections and Political Participation.—In 2005 President Blaise Compaore won reelection with 80 percent of the vote. Opposition candidate Benewende Sankara, the runner-up, received 5 percent. Despite some irregularities, international observers considered the election to have been generally free but not entirely fair, due to the resource advantage held by the president.

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

In the 2007 legislative elections, the ruling CDP won 73 seats in the 111-seat National Assembly, and the other parties won 38, although 25 of the 38 non-CDP deputies belonged to parties allied with the government. Election observers declared the elections free and orderly, except in four cities where they noted irregularities including several fraud cases involving voter identification cards. Opposition leaders denounced the elections.

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

There were 13 women in the National Assembly and seven women in the 34-member cabinet. One of the four higher courts was led by a woman, the national ombudsman was a woman, 18 elected mayors were women, and an estimated 40 to 45 percent of new communal councilors were women.

There were 16 minority members in the cabinet and 61 in the National Assembly.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials often engaged in corrupt activities with impunity. Local NGOs denounced the overwhelming corruption of senior civil servants and called on President Compaore to address this concern. Corruption was especially acute in the customs service, police, gendarmerie, taxing agencies, health and justice ministries, municipalities, government procurement, the education sector, public service, and media.

In April 2008 the government created the Regulatory Authority of Government Tenders (ARMP), a regulatory oversight body to monitor the tender process for government contracts. The ARMP is authorized to impose sanctions, initiate lawsuits, and publish the names of fraudulent or delinquent businesses; however, it took no action on any of these mandates during the year.

In 2007 the Court of Accounts, responsible for auditing the government's accounts, published an annual report for 2005 highlighting government mismanagement, including by the mayor of Ouagadougou. The report found that the government had failed to comply with proper administrative, accounting, and auditing procedures for government tenders. No known action had been taken on any of the report's recommendations by year's end.

In 2007 the government ratified legislation to create the Superior Authority of State Control (ASCE), an entity under the authority of the prime minister that merges the High Commission for the Coordination of Anti-Corruption Activities, the State Inspector General, and the National Commission for the Fight Against Fraud. In addition to releasing annual reports from auditing entities, ASCE has the authority to prosecute ethics breaches in the public sector, including by state civil service employees, local and public authorities, state-owned companies, and all national organizations invested with public service missions. Despite this mandate, no action was taken during the year by the ASCE, which observers believed had insufficient power.

However, on May 28, the ASCE published its 2008 annual report, the agency's first, which highlighted mismanagement in government agencies, citing corruption involving a high commissioner, the secretary general of one ministry, and the director general of another ministry. According to the report, approximately 92 million CFA francs (\$189,814) were misappropriated in 2008. The ASCE recommended tougher management measures, prosecutions, and reimbursement of misappropriated funds. No known action had been taken on the report's recommendations by year's end.

Despite numerous instances in recent years of high-level corruption, no senior officials were prosecuted for corruption, and it was unclear whether the Justice Ministry was equipped to handle such cases. In its 2007 report, RENLAC noted that "lack of experience coupled with a deficit of appropriately trained judges has rendered the Justice Ministry incapable of effectively dealing with corruption cases." The report continued that the ministry's resources were insufficient to handle the increasing number of financial crimes and that its efforts were limited to the smallest racketeering cases rather than higher-level corruption.

Some public officials are subject to financial disclosure laws, but these laws were not effectively enforced.

No laws provide for public access to government information. While government ministries released some non-sensitive documents, local journalists complained that ministries were generally unresponsive to requests for information, ostensibly for reasons of national security and confidentiality. They also criticized government

spokespersons for strictly limiting the scope of questions that could be raised during official press conferences. There is no procedure to appeal denials of requests for information.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

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

The government permitted international human rights groups to visit and operate in the country; however, there were no reported visits during the year by the UN or other international organizations.

The Ministry of Human Rights is responsible for the protection and promotion of human rights. The minister of human rights reports to the prime minister. During the year the ministry conducted education campaigns and produced human rights pamphlets for the security forces.

The ombudsman, who is appointed by the president for a nonrenewable five-year term and cannot be removed during the term, had limited resources. The public generally trusted the ombudsman's impartiality. No report of the ombudsman's work was published during the year.

The governmental National Commission on Human Rights serves as a permanent framework for dialogue on human rights concerns and included representatives of human rights NGOs, unions, professional associations, and the government. The Burkina Faso Movement for Human and Peoples' Rights (MBDHP) did not participate on the commission and continued to charge that the commission was subject to government influence. The commission, which issued no reports during the year, was inadequately funded.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law prohibit discrimination based on race, gender, disability, language, or social status; however, the government did not effectively enforce these prohibitions. Discrimination against women and persons with disabilities remained a problem.

Women.—Rape is a crime; however, the law was not enforced, and rape occurred frequently. There is no explicit discussion of spousal rape in the law, and there were no recent court cases. There were organizations that counseled rape victims, including Catholic and Protestant missions, the Association of Women Jurists in Burkina, the MBDHP, the Association of Women, and Promofemmes, a regional network that worked to combat violence against women.

Domestic violence against women, especially wife beating, occurred frequently, primarily in rural areas. No law specifically protects women from domestic violence, and cases of wife beating usually were handled out of court. There were no available statistics on how many persons were prosecuted, convicted, or punished for domestic violence during the year; however, it was believed such legal actions were infrequent because women were ashamed, afraid, or otherwise reluctant to take their spouses to court. Cases that involved severe injury usually were handled through the legal system. The Ministry for Promotion of Women, the Ministry for Social Action and National Solidarity, and several NGOs cooperated in an effort to protect women's rights. The Ministry for the Promotion of Women has a legal affairs section to inform women about their rights and encourage them to defend these rights.

Childless elderly women with no support, primarily in rural areas, and particularly if widowed, were at times accused of witchcraft and banned from their villages, often accused of eating the soul of a relative or a child who had died. These women sought refuge at centers run by governmental or charitable organizations in larger cities.

The law does not specifically prohibit prostitution, which was prevalent; however, pimping and soliciting are illegal.

The labor code explicitly prohibits sexual harassment in the workplace, but such harassment was common. The law prescribes fines of 50,000 to 600,000 CFA francs (\$103 to \$1,238) and prison terms varying from one month to five years for persons convicted of workplace harassment. There were no available statistics on how many persons were prosecuted, convicted, or punished for the offense during the year.

Couples and individuals are legally entitled to decide freely and responsibly the number, spacing, and timing of their children. They have the right to access reproductive and family planning information and can do so without facing any type of discrimination, coercion, or violence. In practice, however, these rights were not equally applicable to all levels of society, mainly as a result of accessibility to infor-

mation and medical care availability in remote areas. Cultural norms, especially in rural areas that tend to have a less educated population, also played an important role in availability and use of those resources. These reproductive rights were usually respected and available in urban areas and among more educated populations, but less so for couples and individuals living in rural areas. Cultural norms often subject women to their husbands' decisions regarding birth control.

Both government and private health centers were open to all women for reproductive health services, including contraception, skilled medical assistance during childbirth (essential obstetric and postpartum care), and diagnosis and treatment of sexually transmitted diseases, including HIV; however, remote villages often lacked these facilities or did not have adequate road infrastructure to permit easy access. To obtain specific treatment or deliver under medical supervision, women in rural areas sometimes had to travel to the closest large city for access to adequate health centers.

The law prohibits female infanticide, and there were no reports of such cases, although newspapers reported cases of abandonment of newborn babies following unwanted pregnancies.

Women continued to occupy a subordinate position and experienced discrimination in education, jobs, property ownership, access to credit, management or ownership of a business, and family rights. Polygyny was permitted, but both parties had to agree to it prior to a marriage. A wife could oppose further marriages by her husband if she provided evidence that he had abandoned her and her children. Both spouses were able to petition for divorce, and the law provides that custody of a child be granted to either parent, based on the child's best interests. Since 2007 women can serve in the military; however, women represented approximately 45 percent of the general workforce and were primarily concentrated in lower paying positions. Although the law provides equal property rights for women and, depending on other family relationships, inheritance benefits, traditional law denied women the right to own property, particularly real estate. In rural areas land belonged to the family of a woman's husband. Many citizens, particularly in rural areas, clung to traditional beliefs that did not recognize inheritance rights for women and regarded a woman as property that could be inherited upon her husband's death.

The government continued media campaigns to change attitudes toward women, but progress has been slow. The Ministry for Women's Promotion is responsible for promoting women's rights, and the minister was a woman. During the year the government established community banks to promote economic development of grassroots organizations, including women's groups. The banks provided micro loans to fund cereal mills, shea butter production, market gardening, animal fattening, and other small businesses.

Children.—Citizenship is derived either by birth within the country's territory or from the parents. The government failed to register all births immediately, particularly in rural areas where administrative structures were insufficient and rural parents could not afford birth certificates. Such lack of registration sometimes resulted in denial of public services. To address the problem, the government periodically organized registration drives and issued belated birth certificates.

The law calls for compulsory, free, and universal education until the age of 16. The government paid tuition, books, and supplies for all students under 16 years of age, although uniforms were the responsibility of the student's family. Children over 16 years old were responsible for paying all education costs unless they qualified for tuition assistance from merit and need-based programs. The overall school enrollment was approximately 77 percent for boys and 72 percent for girls.

The law prohibits the abuse of children under 15 and provides for the punishment of abusers. The penal code mandates a one- to three-year prison sentence and fines ranging from 300,000 to 900,000 CFA francs (\$619 to \$1,856) for inhumane treatment or mistreatment of children; however, light corporal punishment was tolerated and widely practiced in society, although the government conducted seminars and education campaigns against child abuse.

Female Genital Mutilation (FGM) was practiced widely, especially in rural areas, and usually was performed at an early age. According to a 2006 report by the National Committee for the Fight Against Excision, up to 81 percent of women age 25 and older, and approximately 34 percent of girls and women under 25, had undergone FGM. Perpetrators were subject to a significant fine and imprisonment of six months to three years, or up to 10 years if the victim died. During the year security forces and social workers from the Ministry of Social Action arrested several FGM practitioners and their accomplices. In accordance with the law, they were sentenced to prison.

As part of the government's campaign against FGM in West Africa, the first ladies of Burkina Faso and Niger presided over an October 2008 meeting on FGM in Ouagadougou. Noting that girls were often taken across national borders to countries where excision is legal or law enforcement was weak, participants called on governments to coordinate and enforce national laws against FGM. There were no reports of any actions resulting from this meeting.

Several NGOs stated that child marriage was a problem, primarily in rural areas; however, there were no reliable statistics. The legal age for marriage is 17. The law prohibits forced marriage and prescribes penalties of six months to two years in prison for violation. The prison term may be increased to three years if the victim is under 13 years of age; however, there were no reports of prosecutions of violators.

There were no statistics on child prostitution; however, it was a problem. Children from poor families relied on prostitution to meet their daily needs and, at times, to help their needy parents. Trafficked children, primarily Nigerian nationals, were also subject to sexual abuse and forced prostitution.

The law prohibits the worst forms of child labor, including these of children in pornographic activities and jobs that harm their health. The May 2008 antitrafficking legislation provides for penalties of up to 10 years for violators and increases maximum prison terms from five to 10 years. The law also allows terms as high as 20 years to life imprisonment under certain conditions.

There were numerous street children, primarily in Ouagadougou and Bobo-Dioulasso. Many children ended up on the streets after traveling from rural areas to find employment in the city or after their parents had sent them to the city to study with a Koranic teacher or live with relatives and go to school. At least one NGO assisted street children. Two directorates within the Ministry of Social Action also ran educational programs, including vocational training, for street children, funded income-generating activities, and assisted in the reintegration and rehabilitation of street children. Nevertheless, the number of street children far outstripped the capacity of these institutions.

Trafficking in Persons.—The law prohibits trafficking in persons for all purposes, including sexual, labor, and other related practices. The country was a source, transit, and destination country for children and women trafficked for forced agricultural labor and commercial sexual exploitation, forced labor in gold mines and stone quarries, and forced domestic servitude. Internal trafficking of children was also a problem. Burkinabe children were trafficked primarily to Cote d'Ivoire, as well as to Mali, Benin, Nigeria, Togo, Ghana, and Niger. Children were also trafficked from those West African countries to Burkina Faso. To a lesser extent, Burkinabe women were trafficked to Europe for sexual exploitation. Women were believed to have been trafficked to the country from Nigeria, Togo, Benin, and Niger for domestic servitude, forced labor in restaurants, and sexual exploitation. The country was a transit point for trafficked children, notably from Mali to Cote d'Ivoire.

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

Trafficked children were subject to violence, sexual abuse, forced prostitution, and deprivation of food, shelter, schooling, and medical care. Organized child trafficking networks existed throughout the country and cooperated with regional smuggling rings; authorities dismantled two such networks in 2008. Village vigilance committees and public awareness campaigns contributed to successful efforts by the Ministry of Social Action and security forces in the dismantling of these networks.

The majority of international trafficking was believed to be conducted using forged travel documents. Travel occurred both at official ports of entry and at unmonitored border-crossing points.

According to the report released during the year by the Office for the Protection of Infants and Adolescents, between December 2008 and September 2009, security forces intercepted 197 trafficked children, 176 of whom were boys; 85 children were destined for international trafficking. In 2008 seven child traffickers were arrested; three were cleared of all charges and released, and four received suspended prison terms.

The Ministries of Social Action and National Solidarity, Labor and Social Security, and Justice were responsible for enforcing trafficking and child labor laws and regulations.

The government cooperated with Cote d'Ivoire, Mali, and other governments, and international organizations throughout the year in implementing workshops and overall cooperation on child trafficking.

The government worked with international donors and the International Labor Organization to address child trafficking, in part by organizing seminars on child trafficking for customs officers. During the year security services and civil society groups organized similar workshops and seminars. The government also organized several training sessions for watch committee members. Over several years, the government has established 142 watch committees in 12 of the 13 regions in which child trafficking and child labor were problems. The watch committees included representatives of industries usually implicated in child labor (cotton growers, for example), the police, gendarmerie, magistrates, NGOs, and social welfare agencies. The government also worked with international and domestic NGOs in the fight against trafficking.

The government, in collaboration with the UN Children's Fund, continued to operate transit centers with food and basic medical care for destitute children, including trafficked children. It also helped children return to their families. NGOs operated most reintegration programs for trafficked children.

The State Department's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

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

Programs to aid persons with disabilities were limited. During the year the National Committee for the Reintegration of Persons with Disabilities conducted sensitizing campaigns and implemented reintegration programs and capacity building programs to better manage income-generating activities.

National/ Racial/Ethnic Minorities

Incidents of discrimination occurred involving cattle farmers of the Fulani ethnic group and farmers of other ethnic groups. Such incidents were fueled by the scarcity of grazing lands and Fulani herders' allowing their cattle to graze on farming lands of the other groups.

On June 23, violent clashes over business interests erupted in a mining village in Yatenga Province, between the majority Mossi ethnic group and the minority Bissa ethnic group. The clashes caused several injuries and significant property destruction. The Bissa, who operated businesses and were wealthier than other ethnic groups in the area, fled and sought refuge at the gendarmerie. The incident appeared to be the result of a longstanding commercial dispute between the Bissa, who owned most of the gold speck mills, and the Mossi, who were typically their clients. The situation returned to normal after local authorities, human rights groups, and traditional and religious leaders moved quickly to restore peace.

Societal Abuses, Discrimination and Acts of Violence Based on Sexual Orientation and Gender Identity

Societal discrimination based on sexual orientation and gender identity remained a problem. Religious and traditional beliefs do not tolerate homosexuality, and homosexual persons were reportedly occasional victims of verbal and physical abuse. There were no reports that the government responded to societal violence and discrimination against homosexual persons.

Lesbian, gay, bisexual, and transgender (LGBT) organizations had no legal presence in the country but existed unofficially. Traditional mores are not accepting of LGBT persons. There were no reports of government or societal violence against such organizations.

Other Societal Violence or Discrimination.—Societal discrimination against persons with HIV/AIDS was a problem. Persons who tested positive for HIV/AIDS were sometimes shunned by their families, and HIV/AIDS-positive wives were sometimes evicted from their homes. Some landlords refused to rent lodgings to persons with HIV/AIDS. However, persons with HIV/AIDS were generally not discriminated against in employment practices or the workplace.

Section 7. Worker Rights

a. The Right of Association.—The laws allow workers to form and join independent unions of their choice without previous authorization or excessive require-

ments; however, “essential” workers such as police, army, and other security personnel could not join unions. Approximately 85 percent of the workforce was engaged in subsistence agriculture and did not belong to unions. Of the remainder, an estimated 25 percent of private sector employees and 60 percent of public sector workers were union members. The law provides unions the right to conduct their activities without interference, and the government respected this right.

The law provides for the right to strike; however, the law provides a very narrow definition of this right. Magistrates, police, military personnel, and gendarmes do not have the right to strike.

There were no reports of strikebreaking during the year.

b. The Right to Organize and Bargain Collectively.—Unions have the right to bargain directly with employers and industry associations for wages and other benefits. There was extensive collective bargaining in the modern wage sector; however, this sector included only a small percentage of workers.

There were no reports of government restrictions on collective bargaining during the year.

The 2008 collective bargaining agreement included private sector and civil service workers who participated in negotiations with employers; the agreement that was reached addressed their concerns, including better working conditions and higher salaries.

There were no reports of antiunion discrimination during the year.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred. Women and children were trafficked for agricultural labor, commercial sexual exploitation, domestic servitude, animal husbandry, and work in gold mines and stone quarries.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law sets the minimum age for employment at 16 and prohibits children under 18 years of age from working at night except in times of emergency; however, child labor was a problem, and children worked in the informal, agricultural, and mining sectors outside their own families for little or no pay. The minimum age for employment was inconsistent with the age for completing educational requirements, which generally was 16 years. In the domestic and agricultural sectors, the law permits children under the age of 15 to perform limited activities for up to four and one-half hours per day; however, many children under the age of 15 worked longer hours. An estimated 51 percent of children worked, largely as domestic servants or under harsh conditions in the agricultural or mining sectors. Children commonly worked with their parents in rural areas or in family-owned small businesses in villages and cities. There were no reports of children under age 15 employed in either state-owned or large private companies.

The Ministry of Labor and Social Security, which oversees labor standards, lacked the means to enforce worker safety and minimum age legislation adequately.

Punishment for violating child labor laws included prison terms of up to five years and fines of up to 600,000 CFA francs (\$1,237).

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

e. Acceptable Conditions of Work.—The law mandates a minimum monthly wage of approximately 30,684 CFA francs (\$63) in the formal sector; the minimum wage does not apply to subsistence agriculture or other informal occupations. The minimum wage did not provide a decent standard of living for a worker and family. Employers often paid less than the minimum wage. Wage earners usually supplemented their income through reliance on the extended family, subsistence agriculture, or trading in the informal sector. The Ministry of Labor and Social Security was responsible for enforcing the minimum wage.

The law mandates a standard workweek of 40 hours for nondomestic workers and a 60-hour workweek for household workers, and it provides for overtime pay. There are also regulations pertaining to rest periods, limits on hours worked, and prohibition of excessive compulsory overtime, but these standards were not effectively enforced.

Government inspectors under the Ministry of Labor and Social Security and the labor tribunals were responsible for overseeing occupational health and safety standards in the small industrial and commercial sectors, but these standards did not apply in subsistence agriculture and other informal sectors. The government's Labor Inspector Corps did not have sufficient resources to fulfill its duties adequately, and there were no reports of effective enforcement of inspection findings.

during the year. Every company with 10 or more employees was required to have a work safety committee. If the government's Labor Inspection Office declared a workplace unsafe for any reason, workers had the right to remove themselves without jeopardy to continued employment. There were indications that this right was respected, although such declarations by the Labor Inspection Office were rare.

BURUNDI

Burundi is a constitutional republic with an elected government and a population of 8.3 million. In 2005, following local and parliamentary elections, the two houses of parliament indirectly elected as president Pierre Nkurunziza, a member of the National Council for the Defense of Democracy-Forces for the Defense of Democracy (CNDD-FDD) political party. International observers reported that the elections, which ended a four-year transitional process under the Arusha Peace and Reconciliation Agreement, were generally free and fair. The CNDD-FDD party dominated parliament and the government, although other major parties, notably the Burundian Front for Democracy (FRODEBU) and the Union for National Progress (UPRONA) were also represented. In December 2008 President Nkurunziza signed the Declaration on the Burundi Peace Process with the last active rebel group, PALIPEHUTU-National Liberation Forces(FNL), represented by leader Agathon Rwasa. This began the demobilization, disarmament, and reintegration of the FNL, which continued during the year. On April 18, Rwasa renounced armed struggle, and on April 21, after it dropped "PALIPEHUTU" (Party for the liberation of the Hutu People) from its name, the government registered the FNL as a political party. (The constitution prohibits ethnic references in political party names.) While civilian authorities generally maintained effective control of security forces, there were numerous instances when elements of the security forces acted independently.

The government's human rights record remained poor. Government security forces continued to commit numerous serious human rights abuses, including killings and beatings of civilians and detainees with widespread impunity. Human rights problems also included vigilante abuse and personal score-settling; rape of women and girls; harsh, life-threatening prison and detention center conditions; prolonged pretrial detention and arbitrary arrest and detention; lack of judicial independence and efficiency, and judicial corruption; detention and imprisonment of political prisoners and political detainees; and restrictions on freedom of speech, assembly, and association, especially for political parties. Domestic and sexual violence and discrimination against women remained problems.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The UN Office of the High Commissioner for Human Rights in Burundi reported that security forces killed 19 civilians, compared with 57 in the previous year, based on data gathered through September. The UN noted, however, that it was reevaluating its monitoring mechanisms and may have missed some cases. Local media reported numerous cases in which security forces were known or strongly suspected to have killed civilians unlawfully.

For example, on April 8, unknown perpetrators stabbed to death Ernest Manirumva, vice president and high-profile investigator of the local nongovernmental organization (NGO) Observatory for the Struggle against Economic Corruption and Embezzlement (OLUCOME). Manirumva was widely known to have embarrassed the government, particularly the security forces, by publishing a series of exposés on corrupt payroll and procurement practices. By year's end police had arrested nine suspects, including four policemen. In addition, authorities and local media reported that a Burundian citizen was arrested in Canada for his alleged links to the murder.

On May 21, police opened fire on a group of boy scouts in Kayogoro, Makamba Province, killing one and injuring three. A police spokesperson initially claimed that the scouts had fired first, but later admitted this was not true. Four policemen were arrested. The local police commander, who initially fled the scene, later turned himself in. The communal administrator was also subsequently arrested in connection with the incident. At year's end all six suspects remained in prison awaiting trial.

On October 13, three policemen beat a man to death in Kayanza Town, Kayanza Province. According to witnesses and the policemen who committed the crime, Kayanza Governor Sennel Nduwimana ordered the beating because the victim would not give the governor some land for free. At year's end the three policemen

were in detention, the governor remained in his position, and the investigation was ongoing.

Unlike in the previous year, there were no reports of security forces killing civilians in response to rebel attacks or for suspected collaboration with rebel forces. Since the December 2008 peace agreement with the FNL, there have been no military engagements between government forces and the FNL. Nonetheless, criminal activity linked to former rebels resulted in numerous killings and other serious abuses against the civilian population during the year. The local human rights organization Ligue Iteka claimed that authorities failed to investigate these incidents associated with former rebels or identify the killers.

During the year there were some developments in connection with the following 2008 killings by security forces:

The June 22 killing of two persons in Ruyigi Province as a result of a grenade thrown by a soldier resulted in the arrest of a soldier who was awaiting trial at year's end.

The June 24 killing by a policeman of a civilian in a bar in Ngozi Province resulted in the arrest of a policeman who was awaiting trial at year's end.

The September 25 death by grenade attack of the director general of sports and leisure at the Ministry of Sports, Youth, and Culture outside his home in Musaga resulted in the arrest of a woman who was later released for lack of evidence. There were no further developments by year's end.

There were no further developments in connection with the following 2008 killings by FNL rebels:

The July 6 killing of the head of a family in Muhuta, Bujumbura Rural Province, and the July 8 looting and killing of livestock in Isale, Bujumbura Rural Province.

Given the high numbers of arms circulating among the population and general lawlessness in many areas, a large number of killings could be attributed to vigilante abuse or the settling of personal scores. There were continuing reports of deaths and injuries caused by unidentified persons, some allegedly security force personnel, using grenades and mortars.

On February 21, one man died when an unknown person threw a grenade into his home in Itaba, Gitega Province. It was rumored that the killing was linked to a land dispute. No arrests were made during the year.

On September 9, one person was killed and six others seriously injured when unknown assailants lobbed a grenade into a cafe in Gihanga, Bubanza Province. No arrests were made during the year.

On December 27, two persons were killed and 10 seriously wounded when an unknown assailant set off a grenade in Bujumbura's central market. Two individuals were detained by police, but no charges were filed and the investigation was ongoing at year's end. There were reports of killings, usually perpetrated by unknown persons, of individuals accused of sorcery.

On March 20, unknown assailants killed a woman from Gisuru and a man from Butaganzwa, Ruyigi Province. Local residents suspected the woman's own family of the killings because members of her family had accused her of sorcery. No arrests were made during the year.

On May 5, unidentified persons killed three elderly women accused of sorcery in Gishingano, Bujumbura Rural Province. Their families stated that the women were murdered in order to take their land. No arrests were made during the year.

On May 6, a mob burnt alive a man accused of sorcery in Rumonge, Bururi Province. No arrests were made during the year.

There was no further development in the July 2008 sorcery-related death by mutilation of a 14-year-old girl in Muyinga Province.

The September 2008 killing and burning of four persons in Ruyigi Province resulted in the arrest of some suspects, but at year's end none had been tried for the crimes.

Sporadic killings of persons with albinism, in which the victims' body parts were removed for use in witchcraft, continued. In contrast to the previous year, there were fewer such killings. This decline may be attributed to increased police protection for persons with albinism and more rigorous prosecution of the alleged killers.

For example, on February 13, local authorities in Giteranyi Commune, Muyinga Province, reported that a group of unidentified men murdered and dismembered a 40-year-old woman with albinism. No suspect directly implicated in this case was arrested, although it is possible that the 11 individuals arrested for trafficking in body parts were responsible (see below).

On February 24, the national police confirmed that a group of unidentified men in Kayanza Province killed and dismembered a six-year-old boy with albinism. No suspect directly implicated in this case had been arrested (see below).

On July 9, police discovered the corpse of one person with albinism in Nyabitsinda, Ruyigi Province. Police said that the victim was poisoned but the murderers did not take his body parts. No suspect directly implicated in this case had been arrested (see below).

In September 2008 unidentified assailants in Ruyigi Province killed a girl with albinism and then cut off her hands and feet. Also in September 2008 in Ruyigi Province, unknown attackers killed and cut off the arms and legs of a man with albinism. In November 2008, also in Ruyigi Province, a six-year-old girl with albinism was killed and her head and limbs removed. Armed attackers broke into the family's home and tied up the girl's parents before shooting the girl in the head.

From October 2008 to March 14, 2009, police arrested 11 persons in Karuzi and Ruyigi provinces under suspicion of murder, including murders in 2008 and early 2009, and trafficking in body parts. On July 23, the High Court of Ruyigi Province sentenced one suspect to life imprisonment and three suspects to 15 years' imprisonment. Four other suspects received sentences ranging from one to seven years, while the remaining three suspects were acquitted due to lack of evidence.

In a series of prison breaks on August 1-26, a total of 20 prisoners, including an unconfirmed number of those serving sentences for killing persons with albinism, escaped from prison in Ruyigi Province. Tanzanian security forces recaptured six of the escapees who had crossed into Tanzania, including one of the convicted killers of persons with albinism; this man was later shot and killed when allegedly attempting to escape from Tanzanian security forces.

Widespread public dissatisfaction with security forces' inability to control (and frequent complicity in) crime resulted in several cases of lethal mob action. On September 6, a mob of angry villagers in Muhindo, Ruyigi Province, stoned to death two police officers suspected of theft. At year's end no arrests had been made. While a police spokesperson did not explicitly condone the killings, he commended the mob for "maintaining public order."

On September 18, a mob killed a man caught stealing in the Cibitoke neighborhood of Bujumbura. No arrests were made during the year.

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

Unlike the previous year, the NGO Association for the Protection of Human Rights and Detained Persons (APRODH) reported that no detainees were missing from detention facilities during the year. APRODH also clarified that the 64 detainees reported missing in the previous year were in fact "phantom" cases that resulted from counting alleged offenses instead of actual prisoners, many of whom were charged with several crimes.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution and law prohibit such practices; however, the UN, the international NGO Human Rights Watch (HRW), and domestic NGOs Ligue Itaka and APRODH reported that members of the security forces often manhandled and beat civilians and detainees. Unlike in the previous year, domestic NGOs reported no confirmed incidents of torture. A new penal code specifically prohibiting torture took effect in April.

On January 15, a crowd estimated at 100 persons surrounded the local police commander's compound in the Kamenge neighborhood of Bujumbura following reports that he beat an 80-year-old woman. Police dispersed the crowd. No action was taken against the commander.

On June 17, a male police officer working in the Office of the President attacked a female police officer in Kibenga, Bujumbura, in an apparent dispute over office keys. The female officer sustained head injuries. The male officer had not been formally disciplined or arrested at year's end.

On August 6, a police officer knocked a pregnant woman off an illegal bicycle taxi in Bujumbura, breaking two of her teeth. Two witnesses who reported the incident at police headquarters were themselves briefly detained. The police spokesperson refused comment, but two policemen were arrested in connection with the incident. Neither had been tried by year's end.

A police commissioner accused of torturing a detainee in the Bubanza provincial jail in September 2008 remained in his position without any administrative sanctions.

An allegedly drunken policeman arrested for firing into an unruly crowd in Bururi Province in 2007 was tried in July before the Bururi High Court. The case was still in deliberation at year's end.

Unlike in the previous year, there were no confirmed reports that security forces maintained illegal detention and torture centers across the country. Several Na-

tional Intelligence Service (SNR) facilities reportedly used in the past for torture held “open houses” attended by members of human rights organizations.

On August 7, at Mutimbuzi in Muramvya Province, two armed men in military uniforms raped two 15-year-old girls. By year’s end no suspects had been arrested.

There were no further developments in the following rapes committed by security forces in 2008: the 36 rape cases recorded by the UN; the February 13 rape of a 16-year-old girl at a cantonment camp in Randa; the April 14 rape of a nine-year-old girl at a camp for displaced persons in Buhiga; and the July 1 rape of a woman in Busoni.

According to the UN, unlike in the previous year, there were no known cases of children associated with armed groups at year’s end.

Prison and Detention Center Conditions.—Prison conditions remained harsh and sometimes life threatening. Severe overcrowding persisted, and in June APRODH reported that 10,636 persons were held in 11 facilities built to accommodate a total of 4,050. More than 6,700 of the prisoners had not been tried. According to government officials and human rights observers, prisoners suffered from digestive illnesses and malaria, and some died as a result of disease. Unlike in the previous year, APRODH reported no cases of torture among prisoners and detainees, but physical abuse and prolonged detentions remained problems. For example, 65 percent of prisoners were “preventive detainees” held without charge.

Each prison had one qualified nurse and at least a weekly visit by a doctor; however, prisoners did not always receive prompt access to medical care. Serious cases were sent to local hospitals. The International Committee of the Red Cross (ICRC) was the primary provider of medicines. The government did not feed detainees in communal lockups. Detainees and prisoners not held in communal lockups received 450 grams of food per day from the government; families often had to supplement prisoner rations.

Detention centers and communal lockups were severely overcrowded, and conditions were generally worse than prison conditions. APRODH stated there were numerous unofficial reports of prisoner abuse. Proper sanitation and medical care were limited or nonexistent. There were 400 communal lockups where those arrested were supposed to be held for no longer than one week; in practice detainees were regularly kept in these facilities for much longer periods, ranging from a few weeks to several months.

According to APRODH there were 548 children in prisons, including 79 infants, some of whom were born in the prisons, accompanying their mothers. The mothers in prisons were both pretrial detainees and convicted offenders. In most prisons women were in the same facility as men but had an area for themselves. There was a small women-only jail in Kayanza Province. As of September 30, there were 205 women in prisons, according to the Penitentiary Administration.

Juvenile prisoners were held with, and often treated as, adults.

Political prisoners often were held with convicted criminals.

Detainees awaiting trial were held in communal lockups, but some were also incarcerated with convicted prisoners. In detention centers and communal lockups, minors were not always separated from adult detainees.

During the year the government permitted all visits requested by international and local human rights monitors, including the ICRC; visits took place in accordance with the ICRC’s standard modalities.

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

Role of the Police and Security Apparatus.—The national police are responsible for internal security, but the military (FDN) may assume such responsibilities in time of war. The police deal with criminal matters, and the FDN fulfills external security and counterinsurgency roles. In practice the FDN also arrests and detains suspects. The Ministry of Defense oversees the FDN, and the Ministry of Public Security oversees the national police. The SNR is the national intelligence agency; it reports directly to the president. The SNR gathers intelligence on both domestic and international issues and has the authority to arrest and interrogate suspects.

Members of the security forces were poorly trained. Corruption, disregard for limits on detention, and mistreatment of prisoners and detainees remained problems. An internal affairs unit within the police force investigated crimes committed by police, but punishment was rare. The United Nations Mission in Burundi (BINUB) and NGOs provided human rights training to police. Impunity and lack of accountability for members of the security forces who committed human rights abuses remained problems.

Arrest Procedures and Treatment While in Detention.—The law requires arrest warrants in most cases, and presiding magistrates are authorized to issue them. Po-

lice and the FDN can make arrests without a warrant but are required to submit a written report to a magistrate within 48 hours. However, police rarely respected these provisions in practice and routinely violated a requirement that detainees be charged and appear in court within seven days of arrest. A magistrate can order the release of suspects or confirm the charges and continue detention, initially for seven days, then for seven more days as necessary to prepare the case for trial. Magistrates also ignored the seven-day requirement and detained suspects 10 days or longer. Police are authorized to release suspects on bail, but this provision was rarely exercised. Police regularly detained suspects for extended periods without announcing charges, certifying the detention before a judge, or advising the Ministry of Justice within 48 hours as required. Suspects are permitted lawyers at their own expense in criminal cases, but the law does not require, and the government did not provide, attorneys for indigents at government expense. The law prohibits incommunicado detention, but numerous credible sources reported that it occurred. Authorities on occasion denied family members prompt access to prisoners.

Unlike in the previous year, security forces did not arbitrarily detain any journalists or labor union leaders for prolonged periods of time. Journalist Jean-Claude Kavumbagu and vice president of the Justice Ministry's administrative workers union Juvenal Rududura, both detained in September 2008, were released on March 19 and July 9 respectively. Kavumbagu was cleared of the charge of insulting the president while Rududura remained on "provisional release." He was monitored closely by authorities and not permitted to leave Bujumbura.

Lengthy jail procedures, a large backlog of pending cases, judicial inefficiency, corruption, and financial constraints often caused trial delays. Irregularities in the detention of individuals, including holding them beyond the statutory limit, continued. Human rights NGOs and others lobbied the government unsuccessfully for the release of prisoners who were held for long periods of time without charge.

e. Denial of Fair Public Trial.—Although the constitution and law provide for an independent judiciary, the judiciary was not independent of the executive branch, was inefficient, and was hampered by corruption. Political interference seriously compromised the judiciary's impartiality.

The judicial system consists of civil and criminal courts with the Supreme Court and Constitutional Court at the apex. In all cases involving constitutional matters, the Constitutional Court has the ultimate appellate authority, while the final authority in all other cases rests with the Supreme Court.

The law provides for an independent military judicial system, which in practice was influenced by the executive and higher-ranking military officers. Courts of original jurisdiction for lower-ranking military offenders are called "War Councils," and one exists in each of the five military districts. A Tribunal of Appeals hears appeals of War Council decisions and also has trial jurisdiction for mid-ranking military offenders. Military courts have jurisdiction over military offenders and over civilians accused of offenses implicating members of the military. Military courts provide the same rights as criminal courts.

The government officially recognizes the traditional system of community arbitration known as "abashingantahe," which functions under the guidance of community members recognized for their conflict resolution skills. A "mushingantahe," or community mediator, is recognized by the community and presides over deliberations; no lawyers are involved. The opinion of a mushingantahe often is necessary before access is granted to the formal civil court system. The abashingantahe system is limited to civil and minor criminal matters.

Trial Procedures.—All trials are publicly conducted by panels of judges. In theory, defendants are presumed innocent and have a right to counsel, but not at the government's expense, even in cases involving serious criminal charges. Defendants have a right to defend themselves, which includes the right to question the prosecution's witnesses, call their own witnesses, and examine evidence against them. Defendants can also present evidence on their own behalf, which is what occurred in the majority of cases; few defendants had legal representation because few could afford the services of one of the 90 registered lawyers in the country. Some local and international NGOs provided juridical assistance but could not assist in all cases. The law extends the above rights to all citizens.

All defendants, except those in military courts, have the right to appeal their cases up to the Supreme Court. In practice the inefficiency of the court system extended the appeals process for long periods, in many cases for more than a year. This effectively limited the possibility of appeals, even by defendants accused of the most serious crimes.

Procedures for civilian and military courts are similar, but military courts typically reached decisions more quickly. Military trials, like civilian trials, generally

failed to meet internationally accepted standards of fairness. The government does not provide military defendants with attorneys to assist in their defense, although NGOs provided some defendants with attorneys in cases involving serious charges. Military trials generally are open to the public but can be closed for compelling reasons, including for national security or when publicity can harm the victim or a third party, such as in cases involving rape or child abuse. Defendants in military courts are allowed only one appeal.

Political Prisoners and Detainees.—The incarceration of political prisoners and detainees remained a problem. According to human rights observers, there were an estimated 30 political prisoners. This contrasts with the previous year, when several hundred PALIPEHUTU-FNL combatants were imprisoned for allegedly political reasons. Authorities released many former rebels as part of the demobilization process in the first half of the year; the remaining detainees were widely believed to be common criminals.

In November 2008 journalist and political activist Alexis Sinduhije was arrested at the Bujumbura headquarters of his Movement for Security and Democracy (MSD), a political party not then registered by the government. Sinduhije was subsequently charged with insulting President Nkurunziza based on comments allegedly found in Sinduhije's personal papers. On March 12, the Bujumbura High Court cleared Sinduhije and released him.

On May 25, an appeals court upheld the prison sentences of former CNDD-FDD party chairman Hussein Radjabu and his codetainees convicted of "intent to disrupt national security through armed rebellion." Radjabu continued to run his Union for Democracy (UPD) political party from prison.

The government generally afforded international organizations and local human rights NGOs access to political prisoners.

Civil Judicial Procedures and Remedies.—The judiciary was neither independent nor impartial. Media reports alleged that the judiciary included many individuals beholden to the government. The execution of court decisions, including payment of damages, was slow, sometimes taking years.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and law provide for the right to privacy, but the government did not always respect this right in practice. Authorities rarely respected the law requiring search warrants. Sources in the media and civil society believed that security forces monitored telephone calls.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution and law provide for freedom of speech and of the press; however, the government generally did not respect these rights in practice. The government does not tolerate public criticism, particularly perceived insults to the president and other high-level public officials in the media or at public gatherings. Although legislation regulating political gatherings was repealed in November 2008, opposition meetings continued to be monitored and sometimes disrupted by the government.

There were no reports that the government used direct censorship or forced media outlets to suspend operations. However, journalists continued to exercise self-censorship in the expectation that direct criticism of the president and other high-level government officials would not be tolerated.

On July 19, the director of urban development in the Ministry of Public Works threatened Marc Niyonkuru, a Radio Isanganiro journalist, after Niyonkuru reported that an official vehicle of the Department of Urban Development was used for disseminating ruling CNDD-FDD party propaganda. The director admitted calling the journalist but denied threatening him.

There were eight private weekly publications and 23 private Internet and fax-based news sheets. Print runs by independent publications were small, and readership was limited by low literacy levels. Newspaper circulation was generally limited to urban centers. Ownership of private newspapers was concentrated in the capital, but a wide range of political opinions were expressed. The government controlled several major media outlets, including *Le Renouveau*, the only daily newspaper, and the National Television of Burundi. There were two private television stations, including a station with primarily Muslim programming and strong ties to the CNDD-FDD.

Radio remained the most important medium of public information. The government-owned radio station broadcast in Kirundi, French, and Kiswahili and offered limited English programming. There were 13 privately owned radio stations, including a new station focused on broadcasting women-oriented development and human rights programs that opened on April 27 in Gitega Province. Since March 2008,

CNDD-FDD has run a private, progovernment radio outlet, Rema FM, which is one of only two local radio stations on air 24 hours a day. CNDD-FDD owns another radio outlet based in the central town of Ngozi that broadcast to the northern and central provinces. Some private stations received funding from international donors. Listeners could receive transmissions of foreign news organizations such as the BBC and Voice of America.

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

On August 28, the media regulatory body, the National Communications Council (CNC), whose members are nominated by the president, ruled against Eric Manirakiza, editing director of Africa Public Radio (RPA), in a defamation complaint filed by the minister of planning. The CNC stated that Manirakiza must repair the damage to the public persona of the minister caused by Manirakiza's July 25 report that described the minister's second marriage as illegal.

At the same session, the CNC ruled that RPA's report on a border conflict between Rwanda and Burundi over the Sabanerwa region was dangerous and constituted a possible threat to national security. The CNC forwarded the case to the courts responsible for levying fines and penalties against news outlets. On September 10, the director of RPA brought a countersuit against the CNC seeking the repeal of its decisions. During a December 3-4 meeting between the media and CNC officials mediated by former Burundian president Sylvestre Ntibantunganya, the parties agreed that all pending lawsuits against the media should be discontinued. Ntibantunganya was designated to convey this decision to the judiciary. At year's end it appeared that the lawsuits would be dropped.

Journalist Jean-Claude Kavumbagu, who was detained in September 2008 for "insulting" the president, was released on March 19 (see section 1.d.).

Internet Freedom.—There were no reports of government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics for 2008, less than 1 percent of the country's inhabitants used the Internet.

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

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The constitution and law provide for freedom of assembly; however, the government at times restricted this right. An October 2008 presidential decree required all political parties to obtain government permission to hold gatherings. After numerous protests by local political parties and international actors, the government rescinded the decree in November 2008 and required only that political parties notify local authorities before assembling.

Despite the law's repeal, provincial governors and communal administrators disallowed and disrupted numerous meetings of opposition political parties that had properly notified authorities. During a June 17 meeting with civil society, the minister of interior acknowledged that some local administrators illegally prevented opposition parties from holding meetings. The minister specifically condemned the Kanyosha Urbaine communal administrator in Bujumbura for suspending opposition party meetings.

Local NGOs reported that the national police, SNR, Ministry of Interior, and the ruling party's youth league (the Imbonerakure) were involved in suppressing opposition parties. On June 9, the minister of interior made counterclaims that these parties were attempting to create insecurity. The UN and international and local human rights organizations repeatedly expressed concern that the government harassed opposition parties and limited civil society demonstrations.

For example, on January 31, local authorities detained three UPD party members for several hours in Gitega commune, Gitega Province, for holding "an illegal meeting." UPD officials reported that the party representatives had officially requested permission to hold the meeting.

In February the communal administrator of Gitega reportedly banned the UPD party, but an UPD spokesperson announced in March that his party had reached an understanding with the administrator that would allow UPD to continue its activities.

On August 2, Alexis Sinduhije, president of the MSD party, was put under house arrest in Ruyigi Province. On August 3, the Ruyigi public prosecutor brought a warrant to arrest Sinduhije for allegedly organizing an illegal meeting with members

of his party on August 1. Sinduhije and his associates' house arrest ended the following day without any charges filed.

On August 9, police and the communal administrator prevented the FNL from opening its party headquarters in Musaga, Bujumbura. The same day, FNL members were prevented from meeting at their party headquarters in Buhiga Commune, Karuzi Province. Such local government interference occurred repeatedly even though nonpublic meetings at party headquarters do not require government authorization.

Freedom of Association.—The constitution provides for freedom of association; however, the government sometimes restricted this right in practice. Registration was required for private organizations and political parties. Three new political parties successfully registered, including the FNL on April 21 and MSD on June 8. There were reports that the ruling CNDD-FDD party used the power of the incumbency to deny national identity cards, employment, access to social programs, and generally to harass individuals who were members of opposition parties.

On January 5, a young man was beaten by local police in Kinama, Bujumbura, allegedly for supporting the FNL instead of belonging to the ruling CNDD-FDD party. No investigation or arrests took place during the year.

On February 27, Frederick Misago was killed in Kamenge, Bujumbura. Misago had reportedly been dismissed from the SNR because he left the CNDD-FDD to join the FRODEBU party. No investigation or arrests took place during the year.

On August 23, the head of UPD in Kayogoro Commune, Makamba Province, was jailed for refusing to put a CNDD-FDD flag in front of his house. Soon after, unknown individuals burned the livestock sheds at his and his mother's home. The UPD leader was released after two days, but no investigation or arrests in connection with the arson took place during the year.

Private organizations were required to present their articles of association to the Ministry of Interior for approval. There were no reports that the government failed to complete the approval process for private organizations whose purposes the government opposed.

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

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

Societal Abuses and Discrimination.—There were no reports of societal violence, harassment, or discrimination against members of religious groups, including inter-religious or intrareligious incidents.

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

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation; however, the government sometimes restricted these rights in practice. The government continued to restrict movement into and out of Bujumbura and other cities at night. Citizens' movements were restricted by government checkpoints and the threat of violence by armed bandits.

The law does not provide for forced exile, and the government did not use this practice; however, many persons remained in self-imposed exile.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons (IDPs), refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern. During the year the UNHCR facilitated the voluntary repatriation of approximately 31,000 refugees who had previously fled to neighboring countries, primarily Tanzania, bringing the total of returned refugees to 505,251 since 2002. On September 15, the UNHCR reported that 50,000 refugees from Tanzania's Old Settlements had returned. The repatriates, who returned mostly to the southern and eastern provinces, often found their land occupied. Poor living conditions and a lack of food and shelter were problems for returnees although the UNHCR observed a positive trend since the second half of 2008, with fewer returnees requesting temporary shelter. At year's end 13 temporary accommodation centers had been built in the major areas of origin of the former 1972 refugees, primarily Rutana, Makamba, and Bururi provinces, in order to allow them to participate in the resolution of land conflicts affecting them. The

Ministry for Territory and Land Management, along with the UNHCR, was responsible for the preparation of integrated village sites for refugees, IDPs, and other vulnerable groups. Five integrated villages with approximately 700 houses had been established in the provinces of Ruyigi, Makamba, and Rutana since 2008.

The UNHCR and the Government Project for the Reintegration of War-Affected Persons (PARESI) assisted in the resettlement and reintegration of refugees and IDPs. During the year PARESI registered and helped to relocate 4,525 persons, including 3,000 repatriates (500 of whom forcibly expelled) from Rwanda, and four persons expelled from Uganda; the remaining 1,521 were expelled from Tanzania. The National Office for the Protection of Refugees and Stateless Persons (ONPRA) in the Ministry of Interior formally took over all asylum-related tasks in March.

Internally Displaced Persons (IDPs).—Despite improved security, an estimated 100,000 IDPs remained in settlements throughout the country. Most were Tutsi who fled their homes during internal conflict in 1993. Some attempted to return to their places of origin but the majority relocated to urban centers. According to the UN Office for the Coordination of Humanitarian Affairs, most were living at 160 sites, the majority in Kayanza, Ngozi, Kirundo, Muyinga, and Gitega provinces. A July government survey of the populations living in displacement sites, in old peace villages, and in rural integrated villages stated that many displacement sites in the southern provinces closed while some sites and populations in Bubanza Province, Bujumbura Rural Province, and Bujumbura increased.

In May the government forcibly closed the Tankoma and Bugendana IDP camps in Gitega Province. The Tankoma site was given to the ruling party to build its headquarters. The government intended to build a police officers' school at the site of the former Mitakataka IDP camp in Bubanza Province.

During the year the government took no action on behalf of the approximately 600 IDP families who were violently beaten and forcibly evicted from their land in August 2008.

The government generally permitted IDPs to be included in UNHCR and other humanitarian activities benefiting returning refugees, such as shelter and legal assistance programs.

Protection of Refugees.—The country is a party to the 1951 Convention relating to the Status of Refugees, the 1967 Protocol relating to the Status of Refugees, and the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. The laws provide for the government's granting of asylum or refugee status, and the government has established a system for providing protection to refugees. According to the UNHCR, by year's end the government had granted refugee status and asylum to more than 30,000 persons. In practice the government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The UNHCR reported that the government fulfilled all of its obligations to provide asylum and refugee protections and cooperated with international organizations involved in refugee issues.

As of August 31, according to the UNHCR, there were approximately 30,300 Congolese refugees and 380 Rwandan asylum seekers in the country. The majority of the Congolese were sheltered in four UNHCR-run refugee camps: Bwagiriza in Ruyigi Province, Gihinga in Mwaro Province, Gasorwe in Muyinga Province, and Musasa in Ngozi Province. The Rwandans were sheltered in Giharo camp in Rutana Province. The remaining 10,500 refugees were integrated into urban centers. In early October the UNHCR closed the Gihinga camp, moving the Congolese refugees to the new Bwagiriza camp despite protests by the refugees that they feared for their security at Bwagiriza, which is in Ruyigi Province, bordering Tanzania. The predominantly Banyamulenge Congolese refugees are survivors of the massacre at Gatumba camp five years ago. They expressed fear that the proximity to Tanzania could facilitate a new, cross-border attack from Mai Mai militia elements in refugee camps in Tanzania.

The national police organized several raids throughout the country in January and February to round up illegal immigrants during which more than 1,000 alleged "irregular foreigners," including Congolese, Rwandans, Tanzanians, and Ugandans, were arrested. Over 700 alleged illegal immigrants were expelled, but confusion remained among national police about individuals' status as illegal immigrants, asylum seekers, or refugees. ONPRA and the UNHCR assisted the asylum seekers and refugees. The Rwandan government reportedly requested suspension of deportation proceedings of illegal Rwandan immigrants until a joint commission could discuss the appropriate way to conduct this process.

In 2006 the government appointed a National Commission for Land and Other Goods (CNTB) to resolve land and property disputes, including those resulting from the return of an estimated 500,000 Burundian refugees since 2002, including some who had been in Tanzania since 1972. In addressing land disputes, the government relied on a mixture of customary law and legislation, but few citizens were aware of their legal rights, and most remained too poor to afford legal representation. Although the CNTB's success was limited by jurisdiction problems, the UNHCR reported in December that the CNTB had resolved 13,921 claims, more than half of which were in provinces with a high number of repatriates.

During the year a number of cases of vandalism, assault, and killings were associated with land conflicts, primarily in the provinces of Ruyigi, Muyinga, and Bururi. For example, the CNTB and the Rumonge communal administrator agreed there was an increasing problem of violence between returnees and local communities after two persons were wounded in an August 5 land dispute.

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

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

Elections and Political Participation.—In 2005, through an indirect ballot, citizens chose their first democratically elected president in more than 12 years, marking the end of the four-year transition under the Arusha Peace and Reconciliation Agreement. The legislature elected sole candidate Pierre Nkurunziza of the CNDD-FDD; he was sworn in as president in August 2005.

President Nkurunziza's election followed communal and legislative elections earlier the same year, which independent electoral observers judged to be generally free and fair, although the campaign prior to the national assembly elections was tense and significantly marred by violence and intimidation.

The ruling CNDD-FDD party dominated the government. Opposition parties experienced interference and were subjected to political violence (see section 2).

By year's end no one had been tried in the March 2008 grenade attacks on four politicians' homes.

There were reports that at times persons in authority required membership in the CNDD-FDD was required to obtain education, employment, and health care benefits. For example, the director of Marangara High School, Ngozi Province, threatened students who were members of opposition parties, telling them that there would be consequences for any students not in "his party" (CNDD-FDD).

Multiple sources indicated that CNDD-FDD's youth wing, the Imbonerakure, was allowed to commit abuses, such as threatening and assaulting opposition party members, with impunity, due to its affiliation with the ruling party.

HRW reported that in February Imbonerakure members in Bugabira Commune, Kirundo Province, forcibly interrupted UPRONA and UPD meetings and dispersed attendees.

The constitution reserves 30 percent of National Assembly, Senate, and ministerial positions for women. There were 36 women in the 118-seat National Assembly and 16 women in the 49-seat Senate; women held seven of 24 ministerial seats. There were seven women on the 18-seat Supreme Court, including the chief justice, and two women on the seven-seat Constitutional Court, including the chief justice and deputy chief justice.

The law imposes ethnic quotas, requiring that 60 percent of the seats in the National Assembly be filled by Hutus, the majority ethnic group, and 40 percent by Tutsis, who constitute an estimated 15 percent of the citizenry. The Batwa ethnic group, which makes up less than 1 percent of the population, is entitled to three seats in the Senate. Additionally, military positions were divided equally between Hutus and Tutsis. The government fulfilled this mandate.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for corruption; however, the government did not implement the law effectively. Widespread corruption in the public and private sectors and a culture of impunity remained problems. Several respected private sector representatives and trade association officials reported that corruption remained a major impediment to commercial and economic development. The World Bank's 2009 Worldwide Governance Indicators reflected that corruption was a severe problem. In July OLUCOME estimated the state had lost 276 billion Burundian francs (\$230 million) to corruption and embezzlement since 2000, including 37.6 billion Burundian francs (\$31 million) in the first six months of the year.

There were indications that certain government entities cracked down on corruption, while others protected the guilty and promoted the culture of impunity. For example, customs officials at the border reportedly required a bribe of \$2,000-\$4,000 for permitting a truck with a container to pass through.

On January 15, the Anti-Corruption Court sentenced Jean de Dieu Hatungimana, director of the state-owned real estate company, to 15 years in prison for intentionally wrongly approving payments to a road construction company. On January 19, the Anti-Corruption Court sentenced Ministry of Finance spokesperson Donatien Bwabo to 10 years in prison for authorizing payment to a fictitious garage. Both men appealed and at year's end both remained free and in their high-level positions.

In August 2008 a parliamentary commission established to investigate irregularities in the 2006 sale of the government-owned presidential jet identified several high-level leaders in the ruling party and president's office as complicit in the sale. In August the speaker of the National Assembly, who is a member of the ruling party, canceled the report's release and a debate scheduled to take place on the issue in the National Assembly.

There were no further developments in the case of former central bank governor Isaac Bizimana, who has been in jail since August 2007 for illegal transfer of government funds to a private company, Interpetrol.

The law requires financial disclosure by government officials, but it was not implemented in practice.

The minister of good governance, a Special Anti-Corruption Brigade, and the state inspector general are all responsible for combating government corruption. The brigade has the authority to act on its own initiative to identify offenders and refer them to the general prosecutor for anticorruption. From January to August, the brigade investigated 56 cases and recovered 55.6 million Burundian francs (\$45,950).

The law does not provide for access to government information, and in practice information was difficult to obtain. The law does not allow the media to broadcast or publish information in certain cases relating to national defense, state security, or secret judicial inquiries. Human rights observers criticized the law for its poorly defined restrictions on the right to access and disseminate information.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Human rights observers generally were allowed to visit government facilities such as military bases and prisons run by the SNR. Government officials were somewhat cooperative and responsive to their views. Human rights groups continued to operate and publish newsletters documenting human rights abuses. While well-established groups with international linkages and a presence in Bujumbura had a measure of protection from government harassment, indigenous NGOs were more susceptible to pressure from authorities. On August 4, the minister of interior accused domestic NGOs of being part of the political opposition.

In July a Ligue Iteka observer and a RPA journalist were charged with defamation after criticizing corruption in the local public prosecutor's office in Ruyigi Province. The CNC later agreed to drop all pending legal action against journalists (see section 2. a.).

There were no further developments in the 2008 case of Ligue Iteka members forced to testify in a case brought against RPA by a high-ranking member of the president's office.

Although several international NGOs expressed frustration at the formidable bureaucratic hurdles they faced when registering with government offices, governmental attitudes toward international human rights and humanitarian NGOs remained generally favorable.

The government cooperated with international governmental organizations and permitted visits by UN representatives and other organizations such as the ICRC.

In April the UN Independent Expert on the Situation of Human Rights in Burundi reported increasing trends to restrict freedom of expression and freedom of association. He urged authorities to launch an inquiry into the April 8 murder of Ernest Manirumva (see section 1.a.), stating "his death is yet another proof that the right to freedom of expression is under attack in Burundi and that those who choose to exercise it freely are in danger." In 2008 the expert mission's mandate was renewed, to continue until a National Human Rights Commission had been established.

There was no human rights ombudsman.

Parliament established human rights committees in 2005 in both houses: a Committee for Justice and Human Rights in the National Assembly and a Committee

for Judicial and Institutional Issues and Fundamental Rights and Liberties in the Senate. The committees did not issue reports or recommendations on human rights and did not have any impact on human rights problems. The committees were dominated by the ruling CNDD-FDD and were not independent of government or party influence.

National consultations on the creation of a Truth and Reconciliation Commission, originally scheduled to begin in October 2008, commenced on July 13, and continued to the end of the year. A steering committee of government, UN, and civil society representatives managed the “Popular Consultations on Transitional Justice” to gauge the population’s perspective on how the Truth and Reconciliation Committee and tribunal should function.

In August 2008 the government of Rwanda accused 670 Burundian nationals of having been participants in Rwanda’s 1994 genocide; however, by year’s end the International Criminal Tribunal for Rwanda had not summoned any Burundians.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution provides equal status and protection for all citizens, without distinction based on sex, origin, ethnicity, disability, language, or social status; however, the government failed to implement these provisions effectively, and discrimination and societal abuses continued.

Women.—The law prohibits rape, which is punishable by up to 30 years’ imprisonment. The 2009 revised penal code better defines rape as a crime and prescribes more severe punishments in aggravating circumstances such as young victims or HIV positive rapists. It also prohibits domestic rape, but prescribes only a punishment of fines and eight days’ imprisonment. The government did not enforce rape laws effectively.

During the year there was a high incidence of rape and other sexual violence against women and girls.

A local NGO, the Association for the Defense of Women’s Rights (ADDF), received reports of 3,019 cases of rape and domestic violence during the first half of the year. Centre Seruka is a local NGO equipped in part by Médecins Sans Frontières de Belgique (MSF-Belgium) and funded by the UN Children’s Fund (UNICEF), the UN Population Fund, and the UN Development Fund for Women. The Centre reported receiving an average of 131 victims each month at its center for rape victims in Bujumbura. MSF said the number of rape victims in the general population was likely much higher.

The UN and local women’s organizations reported a decrease in incidents of rape by members of the FDN.

Many women were reluctant to report rape for cultural reasons, fear of reprisal, and unavailability of medical care. Men often abandoned their wives following acts of rape, and women and girls were ostracized. Some police and magistrates reportedly ridiculed and humiliated women who said they were raped and required that victims provide food for and pay the costs of incarceration of those they accused of rape. According to a March report by MSF, many of those who sought judicial redress faced an unresponsive judicial system; courts often refused to act on cases without witnesses. Some victims were reportedly required to pay 15,000 Burundian francs (\$12.50), a large sum for most victims, to obtain a certified medical report. Other problems included judges who did not regard rape as a serious crime, and a lack of medical facilities to gather medical evidence. According to women’s rights organizations, at times families or communities forced victims to withdraw their complaints and negotiate settlements with the perpetrator or his family outside of the formal judicial system. In other cases the victims were forced by their families and local arbiters to marry their attackers. In the limited number of cases that were investigated, successful prosecutions of rapists were rare.

Despite increased attention to the problem, many women did not have access to appropriate health care in the immediate aftermath of a rape due to lack of adequate resources. The continuing stigma attached to victims of sexual violence and a fear of coming forward prevented many victims from accessing these limited services. Civil society and religious communities worked to overcome the cultural stigma of rape to help victims reintegrate into families that had rejected them. Ligue Iteka, APRÓDH, ADDF, and BINUB continued to encourage rape victims to press charges and seek medical care, and international NGOs provided free medical care in certain areas. The government also raised awareness of the problem through seminars and local initiatives describing the kinds of medical care available.

The penal code, as revised during the year, prohibits domestic abuse of a spouse or child, with punishment ranging from fines to three-to-five years’ imprisonment. In January the UN Committee on the Elimination of All Forms of Discrimination Against Women expressed concern over domestic and sexual violence in the country.

Domestic violence against women was common, although no statistics were available. Local NGOs in the southern provinces reported men beating and killing their partners to marry younger women. Many victims did not report crimes of domestic violence, fearing retaliation or a lack of support from the justice system. Police occasionally arrested persons accused of domestic violence but usually released suspects within a few days without further investigation. Wives have the right to charge their husbands with physical abuse but rarely did so. The government held police training on domestic and gender-based violence.

The media reported many instances of degrading and violent treatment of women by their husbands. Incidents included severe beating, mutilation, and murder. For example, on January 6, residents of Cibitoke Province discovered a woman who had been severely burned with hot water and left for dead by her husband the week before. Hospitals in Bujumbura initially refused to provide medical treatment to the badly injured woman because of the stench from her infected wounds. Local police later arrested her husband. At year's end he remained in detention awaiting trial.

On September 12, a man in Makamba Province killed his wife with a machete. Police later detained him. At year's end he was in detention awaiting trial.

The suspect in the October 2008 case in Cankuzo Province who burned his wife's genitals remained in detention at year's end.

The law prohibits prostitution, and organized prostitution does not exist to any significant degree; however, there were private brothels in urban areas, and women engaged in prostitution independently in high-traffic and tourist areas around Lake Tanganyika. While police did not aggressively attempt to curb prostitution, there was no reliable evidence that they participated in or profited from the sex trade.

The revised penal code prohibits sexual harassment, including the use of orders, severe pressure, or threats of physical or psychological violence to obtain sexual favors. The sentence for sexual harassment ranges from fines to penalties of one month to two years in prison. The sentence for sexual harassment doubles if the victim is less than 18 years old. There were no known prosecutions during the year.

The government recognized the right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children. Health clinics and local health NGOs were permitted to operate freely in disseminating information on family planning under the guidance of the Ministry of Public Health. There were no restrictions on access to contraceptives, but according to the Burundian Association for Family Wellbeing, a local NGO focused on maternal health and family planning, only 11.4 percent of Burundians used these measures. The government provided free childbirth services, but lack of sufficient doctors meant most women used nurses or midwives during childbirth as well as for prenatal and postnatal care unless the mother or child suffered serious health complications. Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV, but local health NGOs and clinics reported that women were more likely than men to seek treatment and refer their partners.

Despite constitutional protections, women continued to face legal, economic, and societal discrimination and were often victims of discriminatory practices with regard to credit and marital property laws. By law women must receive the same pay as men for the same work, but in practice they did not. Some enterprises suspended the salaries of women while they were on paid maternity leave, and others refused medical coverage to married female employees. Women were less likely to hold mid-level or high-level positions in the workforce. However, there were many female-owned businesses, particularly in Bujumbura.

Several local groups worked to support women's rights, including the Collective of Women's Organizations and NGOs of Burundi, and Women United for Development.

Children.—Citizenship is derived from the nationality of the father and not by birth within the country. In February UNICEF organized a series of meetings with local and provincial authorities to clarify issues relating to cross-border movements and the rights of children born to mixed-nationality couples.

The failure of the government to record all births resulted in denial of some public services for unregistered children, as the government requires a birth certificate for access to free public schooling and free medical care for children under five. Approximately half of all children were not registered at birth. In August 2008 the government announced that it would register without charge the births of all children up to the age of five. Unmarried women and victims of rape traditionally have been less likely to register the birth of a child.

Schooling is compulsory up to age 12; primary school was the highest level of education attained by most children. The government's 2005 declaration of free primary education substantially increased net enrollment rates, which reached 79 percent in the 2007-08 school year, a 20 percent increase over the 2004-05 session. The govern-

ment claimed a 90 percent enrollment rate for 2008-09. Female illiteracy remained a particular problem.

Rape of minors was a widespread problem, but other child abuse was not reported to be widespread. According to the BINUB, approximately 65 percent of reported rapes were of children aged 17 years and under. The penalty for rape of a minor can be anywhere from 10 to 30 years. The minimum age for consensual sex was 18.

During the year Centre Seruka reported that 15 percent of the sexual violence cases it handled concerned children less than five years of age. The UN Development Fund for Women reported that many rapes of minors were motivated by the rapist's belief that they would prevent or cure sexually transmitted diseases, including HIV/AIDS. Centre Seruka reported that 95 percent of the rape victims who visited its facility during the year were female; the average victim assisted by Seruka was 11.5 years old, while only six individuals were adults between the ages of 20-25. Local NGOs reported providing services to secondary school students who were coerced to perform sexual acts or raped by schoolteachers.

The 2009 revised penal code prohibits child abuse and includes a provision protecting children who are still breast-feeding. A father who takes a breast-feeding child from his mother without her consent can be charged with a felony offense.

According to 2008 statistics from the Ministry of Human Rights and Gender, there were approximately 5,000 street children in the country, many of them HIV/AIDS orphans; however, the government was unable to provide them with adequate medical and economic support and relied on NGOs to provide such basic services.

Increasingly children engaged in prostitution for survival; however, it was not considered widespread. The 2009 revised penal code prohibits child prostitution; penalties include fines and from five to 10 years' imprisonment. The law also prohibits child pornography, which may be punished by fines and three to five years' imprisonment.

The government and former rebel forces claimed they no longer recruited anyone less than 18 years of age. From April to June 8, the FNL demobilized approximately 380 minor children associated with its rebel movement. According to the UN, there were no known cases of children associated with armed groups at year's end.

Revisions to the penal code during the year changed the age of criminal responsibility from 13 to 15 years old, stating that minors less than 15 years old could not be held criminally responsible. For minors between the ages of 15 and 18, the new penal code includes provisions for counseling, supervision, judicial surveillance, and foster home or social shelter placement.

Trafficking in Persons.—The 2009 revised penal code prohibits trafficking in persons and prescribes penalties of five to 10 years' imprisonment for anyone convicted of trafficking a third person with or without financial gain. Traffickers could also be prosecuted under existing laws against kidnapping, rape, prostitution, and slavery. Despite these changes in the law, the issue and scope of trafficking was not widely understood by members of the government or the national police.

The Ministry of Human Rights and Gender, in cooperation with the Ministries of Justice and Interior, is the lead agency on trafficking. In 2005 the government created a department within the National Police, the Brigade for the Protection of Minors, to protect children against sexual exploitation. The brigade sought to protect children against forced prostitution and helped some improve their living conditions.

Since its inception the brigade has conducted 10 successful prosecutions of individuals found to be abusing women and children through forced prostitution. The brigade began four additional prosecutions during the year, but at year's end there were no convictions.

There was no credible evidence that government officials participated in, facilitated, or condoned trafficking.

Internal trafficking of children for the purposes of forced labor, particularly for household labor, was a problem. Children, especially secondary school students, were the targeted population.

There were no reliable reports of widespread, organized sex tourism or sex trafficking. Most sex tourists and sex traffickers were reportedly from the United Arab Emirates, Germany, and Tanzania. Sex traffickers trafficked secondary school students for prostitution into neighboring countries. The brigade also reported that a small number of children were reportedly taken from the country to Uganda, Rwanda, and the Democratic Republic of Congo and returned home after two months.

There were no arrests of alleged traffickers.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The constitution prohibits discrimination against persons with physical or mental disabilities, and there were no reports that the govern-

ment failed to enforce this provision regarding employment, education, or access to healthcare. However, the government had not enacted legislation or otherwise mandated access to buildings or government services, for persons with disabilities.

National/Racial/Ethnic Minorities.—Discrimination against Hutus, who constitute an estimated 85 percent of the population, occurred less frequently during the year. The constitution requires ethnic quotas for representation within the government and in the military. Hutus significantly increased their presence and power in the government following the 2005 elections. During the year significant improvements were made in integration of primarily Hutu former combatants into the security forces.

The minority Tutsis, particularly southern Tutsis from Bururi Province, historically have held power and continued to dominate the economy.

Indigenous People.—The Batwa, believed to be the country's earliest inhabitants, represent less than 1 percent of the population and generally remained economically, socially, and politically marginalized. However, the government has instituted several measures to address the Batwa's traditional isolation. Local administrations must provide free school books and health care for all Batwa children. The government also provides small acreages, when possible, for Batwa who wish to become farmers and allocates them approximately two acres of land per family, the average sized farmstead of the country's rural poor.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Despite opposition by local and international human rights organizations, the revisions to the penal code enacted during the year included a provision that criminalizes homosexual acts. Anyone who has sexual relations with a person of the same sex can be sentenced to three months up to two years' imprisonment and/or fined. At year's end no one had been prosecuted under this provision.

In early September the government registered a self-described lesbian, gay, bisexual, and transgender (LGBT) rights organization. In order to register, the organization was informally advised by Ministry of Interior sources to change its name from the "Association for the Respect and Rights of Homosexuals" to the Kirundi word "Humure," meaning "do not be afraid."

The size of the LGBT community was unclear, as many individuals feared identifying themselves as LGBT because it was not culturally acceptable. A study in Bujumbura released on August 15 found 180 males who self-identified as gay men.

Although discrimination existed, it was not always overt or widespread. Families sometimes disowned children who refused to deny their homosexual identity, and gays and lesbians often entered opposite-sex marriages due to social pressure. Humure reported that 90 percent of the men who engaged in male-to-male sex were married. Representatives of the LGBT community stated that after the passage of the revised penal code criminalizing same sex relations, they were subjected to more discrimination, but the number of cases remained small. The government took no steps to counter discrimination against homosexuals.

On July 1, a young man was arrested for allegedly committing sexual violence against a club patron in Bujumbura. The police later stated the man was arrested for being gay but offered to release the suspect in exchange for money. Advocacy by human rights NGOs and the LGBT community helped secure his release from police custody.

Other Societal Violence or Discrimination.—The constitution specifically outlaws discrimination against those with HIV/AIDS or other "incurable" illnesses. There were no reports of government-sponsored discrimination against such individuals, although some observers suggested the government was not actively involved in preventing societal discrimination.

There were persons with albinism who were victims of violence during the year, and discrimination against such persons occurred. Fathers sometimes sent away women who gave birth to children with albinism. The local NGO Albinos Without Borders (ASF) assisted in four cases of mother and child abandonment due to albinism since 2008. Health issues involving eyesight or prolonged sun exposure often affected the ability of persons with albinism to participate fully in school or the workforce. ASF reported that efforts to educate the population about the issues affecting persons with albinism have helped to improve the situation.

There was a series of killings of persons with albinism in 2008 and sporadic killings continued during the year (see section 1.a.).

Incitement to Acts of Discrimination.—On March 6, a demonstration with an estimated 2,000 to 3,000 participants took place in Bujumbura in support of the law criminalizing homosexuality. The march was sponsored by the ruling party, CNDD-FDD. Participants in the antihomosexual demonstration wore CNDD-FDD T-shirts

and sang party anthems. Buses were hired to bring large numbers to the march, including school-aged children; schools were closed for the event.

Section 7. Worker Rights

a. The Right of Association.—The constitution and the labor code protect the right of workers to form and join unions without previous authorization or excessive requirements. However, although most workers exercised this right in practice, the armed forces, state employees, magistrates, and foreigners working in the public sector were prohibited from union participation. The law prevents workers under the age of 18 from joining unions without the consent of their parents or guardians. According to the Confederation of Burundian Labor Unions (COSYBU), many private sector employers systematically worked to prevent the creation of trade unions, and the government failed to protect private sector workers' rights in practice. Relations between COSYBU and the government remained poor. Ligue Itéka reported widespread discriminatory hiring practices for government jobs based on applicants' political affiliations, despite a law prohibiting such practices.

According to COSYBU less than 10 percent of the formal private sector workforce was unionized, while an estimated 50 percent of the public sector was unionized. Most citizens worked in the unregulated informal economy, in which there was little or no legal protection of labor rights. COSYBU stated that virtually no informal sector workers had written employment contracts; according to government statistics, only 5 percent had them.

The law provides workers with a conditional right to strike but bans solidarity strikes and sets strict conditions under which a general strike may occur. All peaceful means of resolution must be exhausted prior to the strike; negotiations must continue during the action, mediated by a mutually agreed-upon party or by the government; and six days' notice must be given to the employer and the Ministry of Labor. Before a strike can occur, the ministry must determine whether strike conditions have been met, which essentially gives it the power to veto all strikes, according to the International Trade Union Confederation (ITUC).

The labor code prohibits retribution against workers participating in a legal strike, but labor leaders continued to suffer abuse. Several leaders of the doctors' and nurses' unions who organized a series of strikes between February and May reported receiving death threats. Four committee members of the state-owned Moso Sugar Company's labor union were dismissed for organizing a peaceful strike in April 2008 and had not been reinstated by year's end.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, but the government frequently interfered with unions and intimidated or harassed their leaders. The law also recognizes the right to collective bargaining, and it was freely practiced; however, wages are excluded from the scope of collective bargaining in the public sector and were set according to fixed scales, following consultation with unions.

Since most salaried workers were civil servants, government entities were involved in almost every phase of labor negotiations. Both COSYBU and the Confederation of Free Unions represented labor interests in collective bargaining negotiations, in cooperation with individual labor unions. Civil servant unions must be registered with the Ministry of Civil Service. There were no reliable statistics on the percentage of workers covered by collective agreements.

The law prohibits antiunion discrimination; however, the government often failed to respect this right in the public sector. During the year there were numerous instances of the government intimidating, imprisoning, or illegally transferring union workers. For example, the leader of the state penitentiary workers' union, who was administratively transferred in April 2008 to another work site for criticizing sharp increases in management salaries, was permitted to remain at her original post following an outcry from local NGOs. However, she was reportedly ostracized by her employers and no longer had any responsibilities.

According to the ITUC, the government often failed to protect workers in the private sector from discrimination by employers.

In September 2008 the vice president of the Justice Ministry's Administrative Workers Union, Juvenal Rududura, was arrested for allegedly lying during a television interview in which he criticized government policies. Following prolonged detention without trial, he was "provisionally released" on July 9. However, his movements were restricted; he was not permitted to leave the country, and his activities were closely monitored by the government.

There were no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there continued to be reports that it occurred. Most of these reports concerned cases of domestic servitude or work by

children in fishing and subsistence agriculture, primarily bananas, cassava, maize, and beans (see section 6).

d. Prohibition of Child Labor and Minimum Age for Employment.—The labor code states that enterprises may not employ children under the age of 18, except for exceptions permitted by the Ministry of Labor. These include light work or apprenticeships that do not damage children's health, interfere with their normal development, or prejudice their schooling. However, the government did not effectively enforce these laws, and child labor remained a problem. Additionally, the legal age for most types of "non-dangerous" labor is 18. The code also permits children aged 12 and up to be employed in "light labor," such as selling newspapers, herding cattle, or preparing food. However, children less than age 16 in rural areas regularly performed heavy manual labor in the daytime during the school year. According to the ITUC, the vast majority of children in the country worked during the year.

Children were legally prohibited from working at night, although many did so in the informal sector. Most of the population lived by subsistence agriculture, and children were obliged by custom and economic necessity to participate in subsistence agriculture, family-based enterprises, and other informal sector activity. Child labor also existed in brick making enterprises.

There continued to be reports of children performing household domestic labor. Local media in Rumonge, Bururi Province, reported young children working 12-hour days in the informal fishing sector. As in previous years, there was no indication that children were trafficked for commercial sexual exploitation or labor on an organized or widespread basis.

The Ministry of Labor was charged with enforcing child labor laws and had multiple enforcement tools, including criminal penalties, civil fines, and court orders. However, in practice the laws were seldom enforced. Due to a lack of inspectors, the ministry enforced the law only when a complaint was filed. The government acknowledged no cases of child labor in the formal sector of the economy during the year but had conducted no child labor investigations. In conjunction with UNICEF and NGOs, the government provided training for ministry of labor officials in enforcing child labor laws.

During the year the government supported international organizations, several NGOs, and labor unions engaged in efforts to combat child labor; efforts included care and training of demobilized child soldiers. UNICEF assisted the Ministry of Labor to implement a public education program to counter child labor and the abuse of former child soldiers.

e. Acceptable Conditions of Work.—Although the cost of living rose significantly during the year, the legal minimum wage for unskilled workers continued to be 160 Burundian francs (\$0.13) per day. While some employers voluntarily paid their unskilled laborers a minimum of 1,500 Burundian francs (\$1.25) a day, this was far from standard practice. In general, unskilled workers' incomes did not provide a decent standard of living for a worker and family. Most families relied on second incomes and subsistence agriculture to supplement their earnings. The Department of Inspection within the Ministry of Labor is charged with enforcing minimum wage laws, but there were no reports of enforcement in recent years. The legal minimum wage had not been revised in many years, and there were no known examples of employer violations. These regulations apply to the entire workforce and make no distinction between domestic and foreign workers or between the informal and formal sectors.

The labor code stipulates an eight-hour workday and a 40-hour workweek, except for workers involved in national security activities; however, this stipulation was not always enforced in practice. Supplements must be paid for overtime. There is no statute concerning compulsory overtime, opportunities for which generally do not exist. Rest periods include 30 minutes for lunch. There are no exceptions for foreign or migrant workers.

The labor code establishes health and safety standards that require safe workplaces. Enforcement responsibility rests with the Ministry of Labor, which was responsible for acting upon complaints; however, there were no reports of complaints filed with the ministry during the year. Workers did not have the right to remove themselves from situations that endangered health and safety without jeopardizing their employment.

Small numbers of persons from the neighboring Democratic Republic of Congo, Tanzania, and Rwanda worked in the country but did not constitute a significant presence. They were typically undocumented and worked in the informal sector.

CAMEROON

Cameroon, with a population of approximately 18 million, is a republic dominated by a strong presidency. The country has a multiparty system of government, but the Cameroon People's Democratic Movement (CPDM) has remained in power since it was created in 1985. The president retains the power to control legislation or to rule by decree. In 2004 CPDM leader Paul Biya won reelection as president, a position he has held since 1982. The election was flawed by irregularities, particularly in the voter registration process, but observers concluded that the election results represented the will of the voters. The 2007 legislative and municipal elections had significant deficiencies in the electoral process, including barriers to registration and inadequate safeguards against fraudulent voting, according to international and domestic observers. Although civilian authorities generally maintained effective control of the security forces, security forces sometimes acted independently of government authority.

Human rights abuses included security force torture, beatings, and other abuses, particularly of detainees and prisoners. Prison conditions were harsh and life threatening. Authorities arbitrarily arrested and detained citizens advocating secession, local human rights monitors and activists, persons not carrying government-issued identity cards, and other citizens. There were incidents of prolonged and sometimes incommunicado pretrial detention and infringement on privacy rights. The government restricted freedoms of speech, press, assembly, and association, and harassed journalists. The government also impeded freedom of movement. Other problems included widespread official corruption; societal violence and discrimination against women; female genital mutilation (FGM); trafficking in persons, primarily children; and discrimination against indigenous people, including pygmies, and homosexuals. The government restricted worker rights and the activities of independent labor organizations. Child labor, hereditary servitude, and forced labor, including forced child labor, were problems.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed politically motivated killings; however, there were reports that security forces committed unlawful killings. There were also some incidents of officers using excessive force; however, the government rarely prosecuted the officers responsible.

On October 28, Captain Jean Pierre Kagombe, a commander in the Upper Plateaux Division, West Region, shot and killed Jean Baptiste Kamgaing, a craftsman, following an identity check. According to press reports, Kagombe and Kamgaing were drinking together at a bar. Kamgaing left first. Shortly afterward, Kagombe and a gendarmerie patrol came across Kamgaing and requested his identification papers. Astounded by the request, Kamgaing told Kagombe that they had just been in the bar together; Kagombe, who was drunk, pulled his gun and killed Kamgaing. According to the police administration, however, Kamgaing refused to abide by the law and tried to run away. When caught, he tried to seize the captain's gun and was shot accidentally. An investigation was underway at year's end.

On November 15, Olivier Villot Ehongo, a second grade police officer and second deputy to the public security commissioner of Bafia, Mbam, and Inoubou Division, Center Region, shot and killed his wife Martine Virginie Ehongo, a magistrate and assistant to the Bafia prosecutor, following a dispute linked to jealousy. On December 1, the Delegate General for National Security (DGSN) suspended Ehongo for three months, pending disciplinary and legal actions. Ehongo eluded capture following the incident and was still wanted by police at year's end.

The government took no action regarding security force killings during the February 2008 riots, which spread to 31 localities including Yaounde and Douala, and the subsequent government crackdown. While the government reported 40 persons killed, nongovernmental organizations (NGOs) such as La Maison des Droits de l'Homme, stated that security forces killed over 100 persons (see section 2.b.).

Unlike in 2008, there were no reports of prisoner deaths related to security force abuse during the year.

On July 16, the Mfoundi High Court in Yaounde postponed indefinitely the trial of defendants charged with the 2006 killing of Gregoire Diboule, allegedly by Ni John Fru Ndi, chairman of the Social Democratic Front (SDF), and 21 other SDF officials who belonged to a competing party faction. The decision followed three previous postponements by the court during hearings held on March 5, March 26, May 28, and June 11.

During the year societal violence and summary justice against persons suspected of theft continued to result in deaths. These acts of mob violence were seldom prosecuted by the government. For example, the press reported 18 deaths from mob violence, including beatings and burnings, an increase from the 13 deaths reported in 2008.

In early May citizens in Douala beat and killed a thief attempting to break into a house. No arrests took place after the attack.

On August 19, the citizens in the Kamkop II neighborhood of Bafoussam burned a thief to death for the alleged theft of a rooster. Again, there were no arrests or charges against the perpetrators.

Mob violence was largely due to public frustration over police ineffectiveness and the release without charge of many individuals arrested for serious crimes.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution and law prohibit such practices; however, there were credible reports that security forces tortured, beat, harassed, and otherwise abused citizens, prisoners, and detainees, although there were fewer such cases than in previous years. The government rarely investigated or punished any of the officials involved.

There were reports that security forces detained persons at specific sites where they tortured and beat detainees. Security forces also reportedly subjected women, children, and elderly persons to abuse.

On January 22, newly recruited soldiers beat approximately two dozen residents of Nsoh (Bafut), in the North West Region after an altercation between the soldiers and a taxi driver. The divisional officer promised that the authorities would take action, but an investigation was still pending at year's end.

On September 17, Douala police officers beat and tore the shirt off of Freddy Nkoue, a cameraman working for Canal 2 International, a Douala-based private television channel. The incident occurred outside the Douala court, where the cameraman was covering the trial of two opposing Union of the Peoples of Cameroon factions. The International Federation of Journalists denounced the "aggression." However, Nkoue did not file charges.

In a March 2008 interview Joseph Lavoisier Tsapy, a lawyer in the West Region and a member of the Liberty and Human Rights League, described the treatment that security forces inflicted on individuals arrested during the February 2008 riots. He stated that security forces repeatedly stripped, beat, and dumped detainees into ashes from burned tires and broken glass, resulting in numerous injuries (see section 2.b.). At year's end the Liberty and Human Rights League and other human rights organizations, in association with the parents and families of the victims, were still compiling information for a formal complaint, in part due to difficulty in identifying the perpetrators.

No action was taken against security force officials responsible for the beating of Bernard Songo, a student from the University of Douala arrested during the 2008 riots, who reported that police officers severely beat him and two co-detainees in the judicial police precinct cells. Journalists covering the trial reported that evidence of the beatings was visible on the victims' bodies.

Prison and Detention Center Conditions.—Prison conditions remained harsh and life threatening. Prisons were seriously overcrowded and unsanitary. In 2008 the National Commission on Human Rights and Freedoms (NCHRF) reported that the daily food ration per prisoner was less than 100 CFA francs (\$0.21). Deficiencies in health care and sanitation, which were common in all prisons, remained a serious issue.

During a May visit to Douala's New Bell Prison some detainees claimed prison authorities brutalized them. In addition, guards and local NGOs reported inmates raping each other.

Numerous international human rights organizations and some prison personnel reported that torture was widespread, but most reports did not identify the victims for fear of government retaliation or because of ignorance of, or lack of confidence in, the judicial system.

In New Bell Prison and other nonmaximum security penal detention centers, prison guards inflicted beatings, and prisoners were reportedly chained or at times flogged in their cells. For example, in May, during a visit to the New Bell Prison, foreign government officials found that disobedient and violent prisoners were chained in a tiny disciplinary cell.

Allegations were also made that authorities administered beatings in temporary holding cells within police or gendarme facilities.

Security forces reportedly subjected prisoners and detainees to degrading treatment, including stripping them, confining them in severely overcrowded cells, denying them access to toilets or other sanitation facilities, and beating them to extract confessions or information about alleged criminals. Pretrial detainees reported that prison guards sometimes required them, under threat of abuse, to pay “cell fees,” a bribe paid to prison guards to prevent further abuse.

In addition, during a February 2008 visit to the Yaounde Kondengui Central Prison, Divine Chemuta Banda, the Chairman of the NCHRF learned that many of the SDF militants incarcerated in 2006 in connection with the death of Gregoire Diboule had been treated inhumanely and denied medical care. The NCHRF referred the matter to authorities, who agreed to address the issue.

During the year the government purchased four trucks for the Yaounde and Douala prisons. In its 2008 human rights report released in October, the Ministry of Justice stated that the government began construction of four prisons in Bangem, South West Region, Ntui and Ngoumou, Center Region, and Bengbis, South Region. The government refurbished or renovated 12 old prisons in seven regions including the central prisons of Ngaoundere, Garoua, and Maroua in the three northern regions. The government also completed construction of the nursery in the Yaounde Kondengui Central Prison.

Prisoners were kept in dilapidated, colonial-era prisons, where the number of inmates was as much as four to five times the intended capacity. Overcrowding was exacerbated by the large number of long pretrial detentions. Some NGOs released a report claiming that cells meant for 30 or 40 persons held more than 100 detainees. The NCHRF reported that in 2008, the government held 23,000 inmates in detention facilities originally built for 16,000 detainees. At year’s end the Ministry of Justice reported that the government held 24,000 inmates in detention. Douala’s New Bell Prison, built for 800 inmates, housed 2,813 inmates. The Buea prison, built for 200 inmates, held 420 detainees, and the Kumba prison, built for 200 inmates, held 481 persons.

In September the media covered a report from the nurse of the Maroua Central Prison in the Far North Region denouncing the dramatic overcrowding of the Maroua Central Prison, which was originally built for 350 inmates and held more than 1,000 detainees.

The Yaounde Kondengui Prison, originally built for an approximately 700 inmates, held 3,500 prisoners in September 2008, according to a statement by its administrator. In October 2008 penitentiary authorities in Bamenda publicly stated that 700 detainees occupied a prison initially intended to hold less than 50 prisoners.

Prisoners’ families were expected to provide food for their relatives in prison. New Bell Prison contained seven water taps for approximately 2,813 prisoners, contributing to poor hygiene, illness, and death.

Health and medical care were almost nonexistent in prisons and detention cells located in gendarmeries and police stations. There were reports that prisoners died due to a lack of medical care. In September a nurse from the Maroua Central Prison submitted a report to the prime minister that 40 prisoners died as a result of inadequate medical care and nutrition. In response, the government completed the renovation of the prison and increased the food budgets.

Unlike in the previous year, no prisoners died as a result of inmate abuse. In 2008 prisoners in the New Bell Prison tried to lynch Ahmend Aliou, who subsequently died in his cell because prison wardens did not provide medical assistance. No action had been taken against prison officials by year’s end. In a 2008 report, the Action of Christians for the Abolition of Torture (ACAT), an NGO that regularly visits prisoners, characterized New Bell Prison as “hell on earth.”

Individuals incarcerated in the New Bell Prison for homosexual acts suffered discrimination and violence from other inmates.

Corruption among prison personnel was widespread. Prisoners bribed wardens for special favors or treatment, including temporary freedom.

There were two separate prisons for women. There were also a few pretrial detention centers for women; however, women routinely were held in police and gendarmerie complexes with men, occasionally in the same cells. Mothers sometimes chose to be incarcerated with their children, while their children were very young or if they had no other child care option. The secretary of state in charge of penitentiary administration acknowledged this was a serious problem and in September 2008 at a training session on detainee rights said that, “Cameroonian prisons should no longer be perceived or managed as places of repression, torture, or various other abuses.”

Juvenile prisoners were often incarcerated with adults, occasionally in the same cells or wards. There were credible reports that adult inmates sexually abused juvenile

nile prisoners. For example, during a visit by foreign government officials to New Bell Prison, a juvenile asked to go to the area with adults. The warden reminded him that adults abuse juveniles in that area.

Pretrial detainees routinely were held in cells with convicted criminals.

Some high-profile prisoners, including officials imprisoned for corruption, were separated from other prisoners and enjoyed relatively lenient treatment.

Authorities held adult men, juveniles, and women together in temporary detention centers, where detainees usually received no food, water, or medical care. Overcrowding was common. Detention center guards accepted bribes from detainees in return for access to better conditions, including permission to stay in an office instead of a cell. Detainees, whose families were informed of their incarceration, relied on their relatives for food and medical care.

In the North and Extreme North regions the government continued to permit traditional chiefs, or Lamibe, to detain persons outside the government penitentiary system, in effect creating private prisons. Many citizens turned to the Lamibe for dispute resolution. Within the palaces of the traditional chiefdoms of Rey Bouba, Gashiga, Bibemi, and Tcheboa, there were private prisons that had reputations for serious abuse. For example, those incarcerated were often tied to a post with chains attached to their wrists and ankles.

In 2007 there was a report that a Lamido (traditional and religious rulers in the northern regions) used law enforcement officials to extort money and confiscate cattle from citizens. Authorities held these citizens without access to an attorney for days or weeks, and then sent them to trial in Garoua, where the charges would routinely be dismissed.

The government permitted international humanitarian organizations access to prisoners. Both the local Red Cross and the NCHRF made infrequent, unannounced prison visits during the year. The government continued to allow the International Committee of the Red Cross (ICRC) to visit prisons.

The government made nominal improvements during the year and allocated more funds to correct food deficiencies.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention; however, security forces continued to arrest and detain citizens arbitrarily.

On February 13, police from Douala 1 Central Precinct arbitrarily arrested dozens of young women in the streets of Akwa and Bonanjo neighborhoods, alleging that the women were prostitutes. Some of the women were prostitutes, many were simply walking down the street. On February 17, police released all the women.

Role of the Police and Security Apparatus.—The national police, the National Intelligence Service (DGRE), the Ministry of Defense, the Ministry of Territorial Administration, and, to a lesser extent, the Presidential Guard are responsible for internal security. The Ministry of Defense, which includes the gendarmerie, the army, the army's military security unit, and the DGRE, are under an office of the presidency, resulting in strong presidential control of security forces. The national police include the public security force, judicial police, territorial security forces, and frontier police. The national police and the gendarmerie have primary responsibility for law enforcement. In rural areas, where there is little or no police presence, the primary law enforcement body is the gendarmerie.

Individuals reportedly paid bribes to police and the judiciary to secure their freedom. Police demanded bribes at checkpoints, and influential citizens reportedly paid police to make arrests or abuse individuals involved in personal disputes. Police were ineffective, poorly trained, underpaid, and corrupt. Impunity remained a problem, in spite of efforts by the government to punish those who abuse their authority. However, police officers involved in illegal activities were increasingly sanctioned during the year.

Citizens viewed police as ineffective, which frequently resulted in mob justice (see section 1.a.).

In 2008 the president signed decrees creating police stations and appointing police personnel in the Bakassi area, a region returned from Nigeria in August. In 2007 Mebe Ngo'o, then-DGSN, created new mobile police units and precincts in Yaounde and Douala to improve professionalism and increase police visibility.

During the year investigations resulted in sanctions against 12 police officers. However, authorities sanctioned fewer police officers for corruption, falsification of official documents, abuse of authority, use of excessive force, extortion of money, arbitrary arrest, blackmailing, and aggravated theft than in 2008.

On January 14, Mebe Ngo'o suspended police officer Charles Bernard Atangana Fono, the assistant to the special commissioner for Nyong and So'o Division, Center

Region, for three months without pay for extortion of money; legal action was pending at year's end.

Also on January 14, Mebe Ngo'o suspended Police Inspector Martin Merimee Loh of the Mbanga, Littoral Region, and police officer Joel Medou Obam, for extortion of money and indiscipline; legal actions were pending at year's end.

On September 11, Emmanuel Edou, the DGSN appointed on June 30, suspended Second Grade Police Officer Michel Bekolo Angoula of the special police precinct of Kadey Division, East Region, and Police Inspector Vally Ghislain Mvondo Mbia of the Department of Border Police, for three months without pay for indiscipline and extortion of money; legal action was still pending at year's end.

Arrest Procedures and Treatment While in Detention.—The law requires police to obtain an arrest warrant except when a person is caught in the act of committing a crime; however, police often did not respect this requirement in practice. The law provides that detainees must be brought promptly before a magistrate; however, this frequently did not occur. Police legally may detain a person in connection with a common crime for up to 24 hours and may renew the detention three times before bringing charges; however, police occasionally exceeded these detention periods. The law permits detention without charge by administrative authorities such as governors and senior divisional officers for renewable periods of 15 days. The law also provides for access to counsel and family members; however, detainees were frequently denied access to both legal counsel and family members. The law permits bail, allows citizens the right to appeal, and provides the right to sue for unlawful arrest, but these rights were seldom exercised.

Police and gendarmes arrested persons on spurious charges on Fridays at mid-day or in the afternoon although the number of such cases had decreased. While the law provides for judicial review of an arrest within 24 hours, the courts did not convene on weekends, so individuals arrested on a Friday typically remained in detention until Monday at the earliest. Police and gendarmes made such "Friday arrests" after accepting bribes from persons who had private grievances. There were no known cases of police officers or gendarmes being sanctioned or punished for this practice. Security forces and government authorities reportedly continued to arbitrarily arrest and detain persons, often holding them for prolonged periods without charges or trial and, at times, incommunicado.

In May the Douala New Bell Prison held approximately 50 persons transferred from administrative detention for two months. The Prefet of Wouri Division, Littoral Region, ordered their administrative detention, following their arrest during a neighborhood sweep.

During the February 2008 riots, security forces arrested 1,671 persons around the country according to March 2008 figures released by the Ministry of Justice (see section 2.b.). NGOs claimed the number was higher and reported that security forces arrested scores of onlookers not directly involved in demonstrations or rioting. More than 500 bystanders, who were previously detained, have since been released. However, approximately 220 people were still detained at year's end because their prison terms exceeded the presidential amnesty.

For example, in February 2008 Yaounde gendarmes arrested Andre Blaise Essama, a computer specialist, for taking pictures of the demonstrations on his way home from work. A plainclothes gendarme officer took Essama to the gendarmerie headquarters where he was interrogated and subsequently incarcerated on charges of disturbing public order and looting. Three weeks later the court released Essama due to the erroneous charges. Essama filed a complaint against the two gendarme officers, but no action had been taken by year's end because Essama was unable to fully identify his perpetrators.

On June 24, the Douala High Court confirmed the three-year prison sentence of Lapiro de Mbanga, a popular singer arrested in Loum, Littoral Region in April 2008 for inciting riots and looting and increased damages to be paid to 280 million CFA francs (\$560,000).

Police arbitrarily arrested persons without warrants during neighborhood sweeps for criminals and stolen goods, most recently on December 12 in the Douala neighborhoods of Deido and Ndokoti. Citizens are required to carry identification with them at all times and police frequently arrested persons without identification during sweeps.

Prolonged pretrial detention was a serious problem. The criminal procedure code provides for a maximum of 18 months' detention before trial. However, the NCHRF's report released during the year but covering 2008, noted that 62 percent of inmates were pretrial detainees. The report also indicated that the longest time a detainee had been in pretrial detention was nine years. In October government statistics showed that 62.48 percent of the 24,000 inmates held in the country were awaiting trial. In 2008 the Cameroon Bar Association indicated that many of these

inmates had been awaiting trial for five to 10 years. The high number of pretrial detainees was due in part to the complexity of cases, judicial inefficiency, staff shortages, and corruption. The bar association linked longer detention periods to a shortage of lawyers and an inadequate tracking system that resulted in frequent loss of files.

The law specifies that, after an investigation has concluded, juveniles should not be detained without trial for longer than three months. In practice the government detained juveniles for longer periods of time. During the year there were reports that some minors in Douala, Buea, and Kumba prisons had been detained for more than a year.

In recent years there were reports that some prisoners were kept in prison after completing their sentences or having been released under a court ruling. This usually occurred when prisoners did not pay their fines.

For example, reports indicated that during the year more than 100 prisoners remained in New Bell Prison despite completing their sentences. In addition, both prisons in Buea and Kumba also held inmates who had completed their sentences.

Amnesty.—In May 2008 President Biya granted amnesty to hundreds of persons convicted for their participation in the February 2008 riots as well as other detainees.

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary; however, the judiciary remained subject to executive influence, and corruption and inefficiency remained serious problems. The court system is subordinate to the Ministry of Justice. The constitution names the president as “first magistrate,” thus “chief” of the judiciary and the theoretical arbiter of any sanctions against the judiciary; however, the president has not filled this role. The constitution specifies that the president is the guarantor of the legal system’s independence. He also appoints all judges with the advice of the Higher Judicial Council. However, the judiciary showed modest signs of growing independence. For example, in September the Supreme Court confirmed an earlier ruling against the Ministry of Culture and found illegal the minister’s decision to dissolve the Cameroon Music Corporation.

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

On March 29, the president signed a decree that dismissed Jean Baptiste Peyembouo, a second grade magistrate, from the judicial and legal service for dereliction of duty.

In early January the vice prime minister and minister of justice hired a consultant to update the penal code and to develop bilingual civil and civil procedure codes.

The legal system includes both national and customary law, and many criminal and civil cases can be tried using either one. Criminal cases are generally tried in statutory courts, and customary court convictions involving witchcraft are automatically transferred to the statutory courts, which act as the court of first instance. Customary law, used in rural areas, is based upon the traditions of the ethnic group predominant in the region and is adjudicated by traditional authorities of that group. Customary law is deemed valid only when it is not “repugnant to natural justice, equity, and good conscience.” However, many citizens in rural areas remained unaware of their rights under civil law and were taught that they must abide by customary laws. Customary law ostensibly provides for equal rights and status; however, men may limit women’s rights regarding inheritance and employment, and some traditional legal systems treat wives as the legal property of their husbands.

Customary courts served as a primary means for settling family-related civil cases, such as matters of succession, inheritance, and child custody. Customary courts may exercise jurisdiction in a civil case only with the consent of both parties. Either party has the right to have a case heard by a statutory court and to appeal an adverse decision by a customary court to the statutory courts.

Military tribunals may exercise jurisdiction over civilians when the president declares martial law and in cases involving civil unrest or organized armed violence. Military tribunals also have jurisdiction over gang crimes, banditry, and highway robbery. The government interpreted these guidelines broadly and sometimes used military courts to try matters concerning dissident groups who used firearms. In December 2008 the president promulgated a new law that reorganized military justice and laid down rules of procedure applicable before military tribunals. For example, military criminal investigation officers may carry out house searches, visit residential premises, and make seizures only in accordance with ordinary law. Also, the state prosecutor may order the arrest and detention of persons presumed to have

committed a crime or caught in the act if the case has been referred to the state prosecutor.

Trial Procedures.—The law provides for a fair public hearing in which the defendant is presumed innocent. There is no jury system. Defendants have the right to be present and to consult with an attorney in a timely manner. Defendants generally were allowed to question witnesses and to present witnesses and evidence on their own behalf. Defendants had access to government-held evidence relevant to their cases and could appeal their cases. Because appointed attorneys received little compensation, the quality of legal representation for indigent clients often was poor.

In April the president signed into law a legal aid bill to facilitate judicial access for all citizens. The new law establishes legal aid commissions at the courts of first instance, high courts, military tribunals, courts of Appeal, and the Supreme Court. Furthermore, it specifies the conditions for legal aid applications, explains the effects of legal aid, and identifies the conditions for withdrawal of such aid. The bar association and some voluntary organizations such as the Cameroonian Association of Female Jurists, offered free assistance in some cases. The services were still available because the new legal aid bill was not fully implemented by year's end.

Lawyers and human rights organizations observed several violations of the criminal procedure code in the government's response to the February 2008 unrest. Some detainees in police or gendarmerie cells did not receive medical assistance or access to an attorney. Jean de Dieu Momo, a human rights lawyer, and ACAT representative Madeleine Afite publically denounced these violations. Afite stated that arrested minors received no assistance from their parents, attorneys, or human rights organizations, as the code mandates. In October and November the lawyers for Polycarpe Abah Abah, who was arrested in 2008 on corruption charges, requested that he be released because the legal period of detention without trial had expired. The court rejected the request.

Political Prisoners and Detainees.—There were reports of political detainees, which included citizens advocating secession through an illegal organization.

During the year the government continued to detain two individuals widely considered by human rights NGOs to be political prisoners. Titus Edzoa, former minister of health and long-time aide to President Biya, and Michel Thierry Atangana, Edzoa's 1997 campaign manager, were arrested in 1997, three months after Edzoa resigned from government and launched his candidacy for president. They were convicted on charges of embezzling public funds and sentenced to 15 years in prison. Both Edzoa and Atangana complained of irregularities in their trials and restricted access to counsel. At the end of the year the prosecutor filed new charges against both men for embezzlement.

Civil Judicial Procedures and Remedies.—The constitution and law provide for an independent civil judiciary; however, the judiciary remained subject to executive influence, and corruption and inefficiency remained serious problems.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and law prohibit such actions; however, these rights were subject to the "higher interests of the state," and there were credible reports that police and gendarmes harassed citizens, conducted searches without warrants, and opened or seized mail with impunity. The government continued to keep some opposition activists and dissidents under surveillance. Police sometimes detained family members and neighbors of criminal suspects.

The law permits a police officer to enter a private home during daylight hours without a warrant if he is pursuing a criminal suspected of committing a crime. A police officer may enter a private home at any time in pursuit of a criminal observed committing a crime.

During the year police put the houses of Southern Cameroons National Council (SCNC) officials and activists under surveillance, searched the houses of some SCNC leaders, and disrupted SCNC meetings in private residences. The SCNC is an anglophone group the government considers illegal because it advocates secession. The group does not have legal status as it has never filed an application to become either a political party or a legally recognized organization because the group considers illegal the government's "rule" over their "territories."

In October, in response to a 2003 complaint filed by the SCNC, the African Union Commission on Human and Peoples' Rights acknowledged serious human rights violations committed by the government against secessionist anglophones, while at the same time dismissing anglophone secessionism.

An administrative authority may authorize police to conduct neighborhood sweeps without warrants. Such sweeps at times involved forced entry into homes in search of suspected criminals or stolen or illegal goods. Security forces sometimes sealed off a neighborhood, systematically searched homes, arrested persons, sometimes ar-

bitrarily, and seized suspicious or illegal articles. In February and March security forces conducted street sweeps in the Douala neighborhoods of Akwa and Bonandjo and arrested dozens of suspects. While security forces subsequently released some, others were kept and transferred to the prosecutor's office on various charges including theft, aggression, and evasion. Some of the recovered stolen items included electronics and cell phones.

Citizens without identification cards were detained until their identity could be established and then released. Several complained that police arbitrarily seized electronic devices and cell phones. Some registered their complaints with the police. For example, residents complained about the December 12 street sweep that took place in the Douala neighborhoods of Deido and Ndokoti. Security forces maintained there was an increase in crime and their intention was to prevent criminal activity.

There continued to be accusations, particularly in the North and Far North regions, that traditional chiefs arbitrarily evicted persons from their land. There was no further development at year's end.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government continued to restrict these rights in practice. The government arbitrarily arrested and detained journalists. Senior members of the government and the CPDM used their positions to harass journalists and encourage their arrest and detention. The government enforced media regulations irregularly, often implementing arduous requirements selectively to regime critics. This often created an environment of self-censorship for journalists and media outlets. Government officials used expansive libel laws to persecute journalists who criticized them.

Individuals generally were able to criticize the government publicly and privately without being subjected to government reprisal. However, there were numerous instances where government officials threatened, harassed, or denied equal treatment to individuals or organizations who criticized government policies or expressed views at odds with government policy.

On January 30, a security officer arrested Roland Fube Fonwi Tita, a chemistry teacher at the English High School in Yaounde, on charges of plotting to assassinate the president and some ministers. The security official, who overheard Fube critique the president during a taxi ride with other passengers, pulled a gun and ordered the taxi driver to take them to a security office. On February 4, the prosecutor detained Fube, who was released on bail on March 3. Fube was charged with making disparaging remarks against the president. The case remained pending at year's end because witnesses failed to appear in court.

The government published the daily newspaper the Cameroon Tribune. The newspaper did not report extensively on protests or political parties critical of the government, overtly criticize the ruling party, or portray government programs in an unfavorable light.

During the year approximately 200 privately owned newspapers were published; however, most appeared irregularly, primarily due to lack of funding. Only an estimated 25 were published on a regular basis. Newspapers were distributed primarily in urban areas, and most continued to criticize the government and report on controversial issues, including corruption, human rights abuses, homosexuality, and economic policies.

The government continued to disburse official funds to support private press outlets during the year. According to media reports, the government awarded funding selectively to outlets that were less critical of the government and with instructions to provide reporting favorable to the regime.

The government interfered with private broadcast, print, and radio media during the year.

Journalists continued to be arrested, harassed, and intimidated. In early July, Jean Bosco Talla, editor of the Yaounde-based private weekly *Germinal*, reported receiving anonymous threats, including a text message with references to the slain Burkinabe editor Norbert Zongo and the missing French-Canadian reporter Andre Kieffer. The threats were linked to the newspaper's decision to republish a report by the Catholic Committee Against Hunger and for Development, which questioned the origin of the president's wealth.

In addition, on December 28, in a revised ruling, the court sentenced Talla to a suspended one-year prison term, and a fine of three million CFA francs (\$6,000) for alleged libel against President Biya, who Talla claimed had betrayed a political pact with former President Ahidjo.

On June 30, gendarmes of the Djeleng gendarmerie brigade, West Region, arrested Michel Eclador Pekoua, publisher of the Bafoussam-based *Ouest Echos*, on

defamation charges due to his April 15 article on the embezzlement of funds from a local bank. Two persons incriminated in the article filed a complaint against him.

Security forces in the wake of the February 2008 unrest, acting under the command of local provincial government officials, restricted press freedom by arresting, detaining, physically abusing, threatening, and otherwise harassing journalists. For example, Lewis Medjo, publisher of *La Detente Libre* who was arrested in September 2008, was still detained at year's end. His appeal trial began on December 8.

In September 2008 Michel Mombio, editor of the independent newspaper *L'Ouest Republicain*, was arrested in Bafoussam and charged with fraud, attempted blackmail, and libel after he wrote an article criticizing cabinet officials. On September 8, the Yaounde First Instance Court held its fourth hearing on the case. The court's ruling on the case was still delayed at year's end.

Police arrested at least three other journalists reporting on high-level corruption during the year and detained them under similar circumstances. In total five journalists were detained during the year.

Radio remained the most important medium and reached most citizens. There were approximately 70 privately owned unofficial radio stations operating in the country, three-fourths of them in Yaounde and Douala. The state-owned CRTV broadcast on both television and radio. Private radio stations included STV, Canal 2 International, and Sweet FM. There was one private cable television network, TV+. The government levied taxes to finance CRTV programming, which allowed CRTV a distinct advantage over independent broadcasters.

The government required nonprofit rural radio stations to submit an application to broadcast, but they were exempt from paying licensing fees. Potential commercial radio and television broadcasters must submit a licensing application and pay an application fee when the application is submitted. Once the license is issued, stations must then pay an annual licensing fee, which was expensive for some stations. Although the government did not issue new broadcast licenses during the year, companies operated without them under a government policy of administrative tolerance.

On August 17, the minister of communication shut down the Yaounde-based Sky One FM Radio station after the radio refused to stop broadcasting its most popular program *Le Tribunal*, which allowed listeners to air grievances and seek assistance. The minister described the program as not conforming to the rules of journalism. Despite protests, the radio station will not receive authorization until it conforms.

The National Communications Council, whose members were appointed by the president to review broadcasting license applications, met twice during the year. In 2008 an official suspended the technical committee that reviews license applications and stated that it would not reconvene until the government reopened previously closed media outlets. Several low-power, rural community radio stations functioned with funding from the UN Educational, Scientific, and Cultural Organization and foreign countries. The government prohibited these stations from discussing politics.

The law permits broadcasting by foreign news services but requires them to partner with a national station. The BBC, Radio France International, and Africa1 broadcast in partnership with CRTV.

Television had lower levels of penetration than print media but was more influential in shaping public opinion. In 2008 the government closed Radio Equinox for its harsh criticism of the regime. The other five independent television stations skirted criticism of the government, although their news broadcasts sometimes focused on poverty, unemployment, and poor education, pointing to the role of government neglect and corruption. During the year the National AntiCorruption Commission organized a seminar on how to convey a positive image of the country and its rulers. Participants from the private press argued that no institution should teach them how to perform their job.

During the year CRTV management continued to instruct staff to ensure that government views prevailed at all times during their coverage.

The government was the largest advertiser in the country. Some private media enterprises reported that government officials used the promise of advertising (or the threat of withholding it) to influence reporting of the government's activities.

The government and government officials used strict libel laws to suppress criticism. These laws authorize the government, at its discretion and the request of the plaintiff, to criminalize a civil libel suit or to initiate a criminal libel suit in cases of alleged libel against the president and other high government officials. Such crimes are punishable by prison terms and heavy fines. The libel law places the burden of proof on the defendant. Government officials abused this law to keep local journalists from reporting on corruption and abusive behavior.

On January 7, the Douala First Instance Court sentenced Lewis Medjo, publisher of the Douala-based weekly *La Detente Libre*, to three years in jail and a fine of two million CFA francs (\$4,000) for allegedly spreading false news. In September 2008 Medjo was arrested after he published an article about a presidential decree on judicial terms of office. On January 9, Reporters Without Borders criticized the sentence and urged authorities to grant bail. Medjo's appeal trial began on December 8, with the final ruling expected early in the following year.

During the year only one government official filed a libel suit against a journalist. In 2008 seven government officials filed libel suits against journalists.

On July 13, the Committee to Protect Journalists wrote a letter to President Biya, expressing concern about ongoing abuses against press freedom and calling for the president to end such practices.

Internet Freedom.—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to the International Telecommunication Union statistics for 2008, approximately 3.8 percent of the country's inhabitants used the Internet.

Academic Freedom and Cultural Events.—Although there were no legal restrictions on academic freedom, state security informants reportedly operated on university campuses. Professors said that participation in opposition political parties or public discussion of politics critical of the government could and in some cases had adversely affected their professional opportunities and advancement.

Unlike in previous years, there were no reported cases of security officials harassing musical entertainers for singing songs that were derogatory to government officials.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The law provides for freedom of assembly; however, the government restricted this right in practice. For example, on November 15, the sous-prefet of Yaounde I banned the extraordinary congress of the People's Socialist Party (PSP) on grounds that the party was illegal and that such activity would disturb public order. The PSP president disputed the allegations and stated that he had duly notified the sous-prefet. He showed the press the notification receipt dated November 4 from the sous-prefet.

The law requires organizers of public meetings, demonstrations, or processions to notify officials in advance but does not require prior government approval of public assemblies and does not authorize the government to suppress public assemblies that it has not approved in advance. However, officials routinely asserted that the law implicitly authorizes the government to grant or deny permission for public assembly. Consequently, the government often did not grant permits for assemblies organized by persons or groups critical of the government and used force to suppress public assemblies for which it had not issued permits.

Authorities refused to grant the SCNC permission to hold rallies and meetings, and security forces arrested and detained SCNC activists. Security forces forcibly disrupted demonstrations, meetings, and rallies of citizens, trade unions, and political activists throughout the year. Unlike in the previous year, security forces' use of excessive force did not result in deaths, although there were numerous injuries.

On May 22, after several postponements, the Yaounde First Instance Court sentenced Bernard Njonga and Jean Georges Etele to a suspended two-month prison term for three years and a fine of 26,500 CFA francs (\$53). Njonga, the president of l'Association Citoyenne de Defense des Interets (ACDIC) and ACDIC member Etele were arrested in December 2008 for disturbing public order and conducting an unauthorized rally.

No action was taken against police who in February 2008 shot and killed Lovet Ndima Tingha, a meat vendor, while police attacked a crowd gathered for a march organized by the opposition SDF party.

There also was no action taken against police responsible for the February 2008 shooting death of Emanuel Tantoh, a demonstrator in Bafoussam, West Region.

There were no new developments in the 2007 case in which a senior divisional officer and his deputy reportedly shot and killed high school students Jean Jores Shimpe Pougou Zok and Marcel Bertrand Mvogo Awono in Abong-Mbang, East Region during a demonstration against a four-month absence of electricity in the town. The government promised an investigation.

The trial continued during the year in the 2006 case of four leaders of the Association for the Defense of Students' Interests, who were charged with rebellion and disturbance of public order.

Freedom of Association.—The law provides for freedom of association, but the government limited this right in practice.

The conditions for government recognition of political parties, NGOs, or associations are arduous, interminable, and unevenly enforced. The process forced most associations to operate in uncertainty, in which their activities were tolerated but not formally approved.

The law prohibits organizations who advocate for any type of secession, leading government officials to disrupt meetings of the SCNC on the grounds that the purpose of the organization rendered their meetings illegal.

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

The practice of witchcraft is a criminal offense under the law; however, individuals generally were prosecuted for this offense only in conjunction with another offense, such as murder. Witchcraft traditionally has been a common explanation for diseases of unknown cause.

Societal Abuses and Discrimination.—There were a few reports of societal discrimination based on religious affiliation, belief, or practice. Established churches denounced new unaffiliated religious groups, most of which were Protestant, as “sects” or “cults,” claiming that they were detrimental to societal peace and harmony. In practice, such denunciation did not inhibit the practice of the unaffiliated religious groups.

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

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—Although the constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, security forces routinely impeded domestic and international travel during the year. The government cooperated with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. On June 1, officers of a Mobile Intervention Unit posted at the Ekona checkpoint, South West Region, allegedly acting under orders, harassed and humiliated Ayah Paul Abine, a CPDM parliamentarian from South Region. Ayah, a dissenting voice in the party, spoke out against a 2008 constitutional amendment to eliminate presidential term limits. Ayah stated that this was a tactic by the government to limit his movements.

Roadblocks and checkpoints manned by security forces proliferated in cities and on most highways, where extortion of small bribes and harassment were commonplace. Police frequently stopped travelers to check identification documents, vehicle registrations, and tax receipts as security and immigration control measures. There were credible reports that police arrested and beat individuals who failed to carry their identification cards as required by law.

The right to foreign travel was generally respected.

The law prohibits forced exile, and the government did not use it; however, some human rights monitors and political opponents departed the country because they considered themselves threatened by the government, and declared themselves to be in political exile.

Internally Displaced Persons (IDPs).—Approximately 100 persons had not returned home due to previous violence between the Bali and Bawock ethnic groups over land disputes and as a result of an attack by the Oku tribe on the Mbessa tribe.

In 2005 between 10,000 and 15,000 citizens in and around the Adamaoua Region villages of Djohong and Ngaoui were displaced following attacks and looting by unidentified armed groups from the Central African Republic (CAR). Officials from the Adamaoua Region administration reported that hundreds of IDPs remained.

During the year the government worked with UNHCR to protect and assist IDPs.

Protection of Refugees.—The country is a party to the 1951 UN Convention relating to the Status of Refugees and its 1967 Protocol relating to the Status of Refugees. Its laws provide for the granting of asylum or refugee status, and the government has established a system of providing protection to refugees. The government granted refugee status or asylum. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular group, or political opinion.

The government also provided temporary protection to certain individuals who may not qualify as refugees and provided it to approximately 83,000 refugees, including 62,000 from CAR, 5,000 from Chad, and 2,971 from Nigeria.

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

The law provides citizens with the right to change their government peacefully; however, President Biya and the CPDM party controlled the political process, including the judiciary and agencies responsible for the conduct and oversight of elections. Electoral intimidation, manipulation, and fraud limited the ability of citizens to exercise this right in past elections. In 2008 the National Assembly passed a constitutional amendment that removed presidential term limits and added provisions for presidential immunity. Although considerable national discussion of the proposal ensued, the National Assembly ultimately passed the revisions in a manner that allowed no debate and underscored the CPDM's unfettered control of all government branches. Neither the electorate nor their elected representatives had an opportunity to affect the outcome of the constitutional exercise.

Elections and Political Participation.—During the 2007 legislative elections, observers witnessed poor supervision at the polling stations and lax application of the electoral law. An unnecessarily complex registration process effectively disenfranchised some voters. The government failed to implement some electoral improvements to which it was committed. For example, despite repeated public assurances, the government was unable to provide indelible ink—an internationally recognized safeguard against multiple voting—to many polling stations. In addition, despite efforts to computerize voter registration, the lists still included numerous errors.

The Supreme Court received over 130 complaints from political parties after the elections, but disqualified the majority of them on technical grounds. However, the court ordered new elections in five constituencies for 17 parliamentary seats, which were held in 2007; the CPDM won 13 seats and opposition parties four. Observers noted some irregularities and low voter turnout.

In July 2008 the government's National Elections Observatory published its assessment of the 2007 legislative and municipal elections. The report cited shortcomings due to lack of coordination between the various electoral commissions and a lack of clear, uniform procedures for the various stages of the electoral process (especially the registration process).

In 2004 President Biya, who has controlled the government since 1982, was re-elected with approximately 70 percent of the vote in an election widely viewed as more free and fair than previous elections. Although the election was poorly managed and marred by irregularities, in particular in the voter registration process, most international observers agreed that it reflected the will of the voters. The Commonwealth Observer Group, however, maintained that the election lacked credibility.

During its June 2008 electoral session, the National Assembly passed an amendment to the law that created Elections Cameroon (ELECAM), extending the deadline for the electoral body's creation from June to December. On December 30 and 31, the president signed decrees appointing all the members of ELECAM, including the president and vice president of the board. Most board members were active CPDM members. Many in the international community publicly questioned the independence and credibility of ELECAM, given the partisan nature of its council membership. However, the government claimed ELECAM could run an independent election and had begun to hire staff needed to organize an election by year's end.

Membership in the ruling political party conferred significant advantages, including in the allocation of key jobs in parastatals and the civil service. The president appoints all ministers, including the prime minister, and also directly appoints the governors of each of the 10 regions. The president has the power to appoint important lower level members of the 58 regional administrative structures as well. Onerous requirements for registration of parties and candidates restricted political activity.

The right of citizens to choose their local governments remained circumscribed. The government greatly increased the number of municipalities run by presidentially appointed delegates, who have authority over elected mayors, effectively disenfranchising the residents of those localities. Delegate-run cities included most of the provincial capitals and some division capitals in pro-opposition regions; however, this practice was almost nonexistent in the southern regions, which tended to support the ruling CPDM party. In municipalities with elected mayors, local autonomy was limited since elected local governments relied on the central government for most of their revenue and administrative personnel.

There were more than 180 registered political parties in the country. Fewer than 10, however, had significant levels of support, and only five had seats in the National Assembly. The ruling CPDM held an absolute majority in the National As-

sembly; opposition parties included the SDF, based in the anglophone regions and some major cities. The largest of the other opposition parties were the National Union for Democracy and Progress, the Cameroon Democratic Union, and the Union of the Peoples of Cameroon.

Authorities sometimes refused to grant permission to hold rallies and meetings. The government considered the SCNC illegal because it advocates secession and had never registered as a political party or organization. During the year security forces preemptively arrested approximately 102 leaders, members, and supporters of the SCNC to prevent them from participating in unauthorized political meetings.

For example, on February 23, security forces in Mutenguene, South West Region, arrested 25 SCNC activists gathered in the residence of one of their national leaders. Security forces later released them.

On March 21, Bamenda police, North West Region, arrested approximately 70 SCNC activists who were meeting to discuss the UN's demarcation of the Cameroon-Nigeria border. The police released them the following day without charges.

In accordance with provisions of the 2008 penal code, officials released, pending trial, individuals who were detained for participating in illegal gatherings of the SCNC.

Women held 23 of 180 seats in the National Assembly, six of 61 cabinet posts, and a few of the higher offices within the major political parties, including the ruling CPDM.

Pygmies were not represented in the National Assembly or the higher offices of government.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. The World Bank's worldwide indicators reflected that corruption was a severe problem. The public perception was that judicial and administrative officials were open to bribes in almost all situations. Corruption was pervasive at all levels of government.

Judicial corruption was a problem. According to several press reports, judicial authorities accepted illegal payments from detainees' families in exchange for a reduction in sentence or the outright release of their relatives, including juveniles. Political bias by judges (often instructed by the government) frequently stopped trials or resulted in an extremely long process with extended court recesses. Many powerful political or business interests enjoyed virtual immunity from prosecution and some politically sensitive cases were settled through bribes.

There were publicized prosecutions of government officials accused of corruption during the year. Government officials accused of corruption were held in separate quarters and received special treatment. During the year the government sanctioned dozens of government employees for corruption and mismanagement.

On March 5, Yaounde judicial police arrested and detained Paul Ngamo Hamani, the former interim administrator of Cameroon Airlines, for embezzlement of public funds. On March 10, the instructing magistrate of the Wouri High Court placed Hamani in pretrial detention. There were no developments by year's end.

On April 15, the Yaounde prosecutor detained Jerome Mendouga, a former ambassador, for embezzlement in connection with the purchase of a presidential plane. Mendouga was in pretrial detention in the Yaounde Kondengui Central Prison at year's end.

In May the government dismissed 106 gendarme officers who used fake degrees to apply to the gendarmerie corps in 2006.

On August 24, the Yaounde High Court sentenced Norbert Ndong, the former director of higher education development and former president of the organizing committee of the higher technician diploma exam, to 10 years' imprisonment and fined him approximately 142 million CFA francs (\$284,000) for embezzlement.

On August 26, the Yaounde judicial police arrested and detained Jean-Baptiste Nguini Effa, the former general manager of the government-owned National Petroleum Distribution Company, along with six of his close collaborators, for embezzlement. On the same day, the police transferred Nguini and his co-accused to Douala, where the prosecutor placed them in pretrial detention after several interrogation sessions.

On September 7, the National Assembly lifted the parliamentary immunity of Dieudonne Ambassa Zang, a CPDM deputy of Mefou and Afamba Division, Center Region, who was wanted for alleged embezzlement during his tenure as minister of public works. Ambassa Zang had not been arrested by year's end and was believed to have fled the country.

In March 2008 police arrested and detained Paulin Abono Moampamb, a former secretary of state and mayor of Yokadouma, a small town in East Region, for embezzlement of public funds. Moampamb was placed in pretrial detention, awaiting trial at year's end.

Also in March 2008 police arrested and detained Polycarpe Abah Abah, a former minister of finance, and Urbain Olanguena Awono, a former minister of public health, for embezzlement. The two men were placed in pretrial detention, awaiting trial at year's end.

In August 2008 police arrested and detained Jean Marie Atangana Mebara, a former minister of state and secretary general of the presidency, for corruption and embezzlement. Mebara was in detention awaiting trial at year's end.

There were new developments in the following 2008 high profile corruption case:

On June 11, the Douala Court of Appeals sentenced Alphonse Siyam Siwe and two other defendants for life imprisonment on embezzlement; the lower court had previously issued 30-year sentences. Among others accused in the case, one was sentenced to 25 years' imprisonment, eight to 15 years', and one to one year. In addition, the court reversed the Wouri Higher Courts' acquittal of seven defendants and sentenced six to 15 years' imprisonment and one to one year.

The constitution and law require senior government officials, including members of the cabinet, to declare their assets; however the president had not issued the requisite decree by year's end.

There are no laws providing citizens with access to government information, and such access was difficult to obtain. Most government documents, such as statistics, letters exchanged between various administrations, draft legislation, and investigation reports, were not available to the public or the media.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing findings on human rights cases; however, government officials repeatedly impeded the effectiveness of local human rights NGOs during the year by harassing their members, limiting access to prisoners, refusing to share information, threatening violence, and using violence against NGO personnel.

Despite these restrictions, numerous independent, domestic human rights NGOs operated in the country, including the National League for Human Rights, the Organization for Human Rights and Freedoms, the Association of Women against Violence, the Movement for the Defense of Human Rights and Freedoms, and the Cameroonian Association of Female Jurists. The government collaborated with domestic NGOs to address child labor, women's rights, and trafficking in persons.

In February 2008 the Douala antiriot police arrested, beat, dragged on the floor, and stripped naked Aicha Ngo Eheg, a human rights activist with "Cri des Femmes," a Douala-based human rights group. Ngo Eheg, along with other demonstrators, had gathered in the Douala neighborhood of Bepanda to march against constitutional reform. According to Ngo Eheg's public statement, the police targeted her because she tried to stop them from harassing a young demonstrator. At year's end Ngo Eheg had not decided whether to file a complaint against the police.

A prominent human rights organization in Yaounde also reported that security forces ransacked its offices during the February 2008 unrest.

On February 4, the vice prime minister and minister of justice reiterated the government's commitment to respond positively to any requests that would help improve human rights in the country. The government cooperated with international governmental organizations and permitted visits by UN representatives and other organizations such as the ICRC; however, in September the government denied visas to an Amnesty International (AI) team. The visa denials occurred after the August 12 release of the annual AI report, which sharply criticized arbitrary arrest and detention and other human rights violations. Although AI was granted visas in November, a visit had not occurred by year's end.

While the NCHRF remained hampered by a shortage of funds, during the year it conducted a number of investigations into human rights abuses, visited prisons, and organized several human rights seminars for judicial officials, security personnel, and other government officials. In December 2008 the commission launched a program to teach human rights in primary and secondary schools. Although the commission rarely criticized the government's human rights abuses publicly, its staff intervened with government officials in specific cases of human rights abuses by security forces. During the year the NCHRF continued its efforts to stop "Friday arrests" (the practice of detaining individuals on Friday to prolong the time before

court appearance) and sought to obtain medical attention for jailed suspects. Government officials also attended several seminars organized by the commission.

The National Assembly's Constitutional Laws, Human Rights and Freedoms, Justice, Legislation, Regulations, and Administration Committee is charged with reviewing any human rights-related legislation the government submits for consideration. During its March session, the president signed the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa as well as a bill to organize legal aid.

In October the Ministry of Justice published its own 2008 human rights report which focused primarily on enumerating government actions to address human rights issues, such as judicial and disciplinary action taken against corrupt officials.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law does not explicitly forbid discrimination based on race, language, or social status, but does prohibit discrimination based on gender and mandates that "everyone has equal rights and obligations." The government, however, did not enforce these provisions effectively. Violence and discrimination against women, trafficking in persons, and discrimination against ethnic minorities and homosexuals were problems.

Women.—The law criminalizes rape, excluding spousal rape, although police and the courts rarely investigated and prosecuted rape cases. The media reported only 14 rape cases during the year; few of those resulted in arrests. Due to social taboos associated with sexual violence, many rapes went unreported. On June 28, the German Agency for International Cooperation, in collaboration with local NGOs, launched a national campaign against rape. The campaign followed the release of a study that reported the rapes of hundreds of thousands of young girls and women between 1970 and 2008.

The law does not specifically prohibit domestic violence, although assault is prohibited and is punishable by prison terms and fines. In December 2008 a study from La Maison des Droits de l'Homme, a Douala-based NGO, reported that approximately 39 percent of women suffered from physical violence. A 2005 survey cited by the Cameroon Tribune also indicated that 39 percent of women living with a man (married or unmarried) were victims of physical violence, and 28 percent were victims of psychological violence. Women's rights advocates asserted that penalties for domestic violence were insufficient. Spousal abuse is not a legal ground for divorce. On March 6, International Women's Day, the newspaper Cameroon Tribune published a special report on the various aspects of violence against women. The report covered FGM, which the government and civil society partners were trying to address for total eradication, physical assaults by husbands, which were numerous and which would require passing specific legislation, and psychological violence, which was mostly linked to women's economic dependency.

Unlike in the previous year, NGOs did not lead public awareness campaigns to combat breast ironing during the year, a practice conducted by female family members.

While the law prohibits prostitution, it was tolerated and practiced predominantly in urban areas and places frequented by tourists.

While the law prohibits sexual harassment, very few cases were reported or prosecuted during the year. The government did not conduct any public education campaigns on the subject and there were no statistics available on its occurrence.

Despite constitutional provisions recognizing women's rights, women did not enjoy the same rights and privileges as men. Some points of civil law were prejudicial to women. The Ministry of Women's Empowerment and the Family worked with other government agencies to promote the legal rights of women.

In rural areas of the northern regions, societal pressures continued to reinforce taboos on discussing contraception and all other sex-related issues. However, the government, in cooperation with NGOs, conducted programs designed to educate couples, especially men, to better understand the positive aspects of responsible spacing between childbirths. For several years the Ministry of Public Health had been producing radio and televised information programs on responsible parenthood, including encouraging couples to use contraception to space the timing of their children. Couples were also encouraged to get HIV/AIDS testing prior to conception, and efforts continued to increase HIV/AIDS testing for all pregnant women at health clinics.

The law allows a husband to oppose his wife's right to work in a separate profession if the protest is made in the interest of the household and the family; a husband may also end his wife's commercial activity by notifying the clerk of the commerce tribunal of his opposition based upon the family's interest.

Customary law is far more discriminatory against women, since in many regions a woman traditionally was regarded as the property of her husband. Because of the importance attached to customs and traditions, civil laws protecting women often are not respected.

Children.—Citizenship is derived from parents' nationality. It is the parent's, not the government's, responsibility to register births. Parents must obtain a birth declaration from the hospital, or health facility in which the child was born, and complete the application. The mayor's office subsequently issues the birth certificate once the file is completed and approved.

The law provides for a child's right to education. Schooling was mandatory through the age of 14 and free in public primary schools. Since parents had to pay uniform and book fees for primary school, and because tuition and other fees for secondary education remained costly, education was largely unaffordable for many children. The government continued its efforts under a three-year program to improve access to schools, such as the construction of new classrooms, recruitment of new teachers, and provision of water fountains.

According to 2008 UN Children's Fund (UNICEF) statistics released during the year, 77.31 percent of girls between the ages of six and 14 were enrolled in primary school, compared to 88.34 percent of boys in the same age group. According to a 2006 report from the presidency the secondary school enrollment ratio was 38.1 percent for boys and 37.1 percent for girls.

The low school enrollment rate, especially for girls, continued to be attributed to high costs, socio-cultural prejudices, early marriage, sexual harassment, unwanted pregnancy, and domestic chores.

The extent of child abuse was not known, although children's rights organizations targeted the problem. Newspaper reports often cited children as victims of kidnapping, mutilation, and even infanticide. Several press stories reported children being raped between the ages of two and 15-years-old.

In March a 27-year-old young man raped his three-year-old niece, in the Yaounde neighborhood of Obobogo. As the girl was rushed to the hospital, gendarmes, who had been alerted by the family, arrested the young man. He was detained, pending trial at year's end.

On August 9, a 17-year-old girl was raped by three of her brother's friends in the Yaounde neighborhood of Nkolindongo. The three, who escaped the crime scene, were subsequently arrested, and were in custody, awaiting trial.

There were several credible stories of mothers (usually young, unemployed, and unmarried) abandoning their newborns in streets, garbage cans, and pit toilets.

The law does not prohibit FGM, which was practiced in isolated areas of the Far North, East, and Southwest regions.

Internal migration contributed to the spread of FGM to different parts of the country. The majority of FGM procedures were clitorectomies. The severest form of FGM, infibulation, was performed in the Kajifu region of the Southwest Region. FGM usually was practiced on infants and preadolescent girls. Public health centers in areas where FGM was frequently practiced counseled women about the harmful consequences of FGM; however, the government did not prosecute any persons charged with performing FGM. In February, the new Prefet of Kousseri, Logone and Chari Division, Far North Region, upon hearing of 20 young girls who underwent FGM in January, publicly stated that he would chase down the perpetrators.

On February 5, the second International Day against FGM, the minister of women's empowerment and the family organized a ceremony for FGM victims and their families as well as for female and male FGM "doctors" from around the country. The doctors, who had been educated about the harmful effects of FGM, publicly declared their decision to abandon the FGM "business" and called upon their colleagues to also stop and to work to better the lives of young girls and women. The "doctors" received equipment to start new occupational activities, including tailoring and agriculture. The minister insisted on the need for citizens to celebrate the day and encouraged women and men to work together to eradicate FGM. She also reiterated the government's commitment to fulfill the president's promise to address FGM.

While the minimum legal age for a woman to marry is 15, many families facilitated the marriage of young girls by the age of 12. Early marriage was prevalent in the northern regions of Adamaoua, North, and particularly the remote Far North Region, where many girls as young as nine faced severe health risks from pregnancies. There were no statistics on the prevalence of child marriage.

Although exact numbers were unavailable, the country had a significant number of displaced or street children, most of whom resided in urban areas such as Yaounde and Douala.

On April 16, the committee heading the Project to Fight the Phenomenon of Street Children, which was established in January 2008, held its second meeting.

The committee reported that between January and April 35 new street children had been identified. The program gathered information on street children, offered psycho-social care, and bolstered the intake capacities of specialized centers.

Approximately 2,000 children lived in the streets of the major urban centers of the country. In April and May 2008, a census conducted in Yaounde and Douala showed that 155 street children lived in Yaounde, and 280 street children lived in Douala. In May 2008 the minister of social affairs launched the operation designed to return 150 children to their families. In December 2008 she revealed that the operation made it possible for 119 out of the 435 children identified in Yaounde and Douala to return home.

Trafficking in Persons.—The law does not prohibit all forms of trafficking in persons, and there were reports that persons were trafficked to, from, and within the country. The law criminalizes child trafficking and slavery and prohibits prostitution, forced labor, and other crimes related to trafficking in persons.

A 2000 International Labor Organization (ILO) study conducted in Yaounde, Douala, and Bamenda, reported that trafficking accounted for 84 percent of child laborers in those three cities. Local NGOs believed this statistic was still accurate. In most cases, intermediaries presented themselves as businessmen, approaching parents with large families or custodians of orphans and promising to assist the child with education or professional training. The intermediary paid parents an average of 6,000 CFA (\$12) before transporting the child to a city where the intermediary would subject the child to forced labor with little remuneration. In four out of 10 cases the child was a foreigner transported to the country for labor. The report also indicated that the country was a transit site for regional traffickers, who transported children from Nigeria, Benin, Niger, Chad, Togo, the Republic of the Congo, and the CAR for indentured or domestic servitude, farm labor, and sexual exploitation. Citizens also were trafficked to South Africa. Children from Mali were trafficked to the country by religious instructors for forced begging. Both boys and girls were trafficked within the country for forced labor in sweatshops, bars, restaurants, on tea and cocoa plantations, in mines, and for street vending and possibly for forced begging.

Women and children traditionally have faced the greatest risk of trafficking generally for sexual exploitation and forced labor. Most trafficking in children occurred within the country's borders, while most trafficked women were transported out of the country. According to anecdotal evidence from the NCHRF, women frequently were "hired" into hubs of prostitution, often in Europe. The method for trafficking women usually involved a marriage proposition by a foreign businessman. Women were often inducted into servitude upon arrival at a foreign destination. Credible reports indicated that traffickers used trafficking victims to recruit additional victims. Girls were internally trafficked from the Adamaoua, North, Far North, and Northwest regions to Douala and Yaounde to work as domestic servants, street vendors, or prostitutes.

The law provides that any person who engages in crimes associated with trafficking in persons shall be punished by prison terms of six months to 20 years.

Although statistics were unavailable because traffickers could be prosecuted under various sections of the penal code, the government reportedly prosecuted trafficking cases during the year. On March 23, gendarmes from the Bamenda Gendarmerie Legion in the North West Region arrested a trafficker who was caught transporting five children to the Center Region to work on a cocoa farm. The trafficker was detained in the Bamenda prison pending trial. In January 2008 gendarmerie in the North West Region arrested three traffickers transporting seven children between the ages of 12 and 17 to the Center Region to work as forced laborers. The case was pending in the Bamenda court at year's end.

The Ministry of Labor and Social Insurance (MINLESI) is primarily responsible for fighting trafficking; however, the ministry was severely underfunded. The Minors Brigade was also responsible for investigating child trafficking.

The government continued to fight trafficking through the use of an interagency committee and a program to find and return trafficked children. In addition, the government cooperated with the governments of Gabon, Nigeria, Togo, and Benin to fight trafficking through the exchange of information and preparation of common legislation on trafficking. The Interpol office in the country also played a significant role in the government's antitrafficking actions.

The government continued to work with local and international NGOs to provide temporary shelter and assistance to victims of trafficking. On July 22, Catholic Relief Services (CRS) launched a project to fight child trafficking in the North West Region. CRS had previously worked with the North West Region branch of the Justice and Peace Committee of the Episcopal Conference of Cameroon to survey the extent of trafficking in the region. CRS also worked to combat corruption in local

schools that led to child prostitution. UNICEF was also actively engaged in combating girls' prostitution throughout the year.

The government continued to build awareness among local government and security officials in the areas where trafficking was an issue. Antitrafficking information, education campaigns, and antitrafficking spots were broadcast on government radio and television. The government monitored immigration and emigration patterns for evidence of trafficking. Frontier police at airports, borders, and ports reported stopping many trafficking cases but did not provide details regarding specific cases.

The State Department's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The law provides certain rights to persons with disabilities, including access to public buildings, medical treatment, and education, and the government was obliged to provide part of the educational expense of persons with disabilities, to employ them where possible, and to provide them with public assistance when necessary. Access to public secondary education is free for persons with disabilities and children born of parents with disabilities. In practice, there were few facilities for persons with disabilities and little public assistance; lack of facilities and care for persons with mental disabilities was particularly acute. Society largely tended to treat those with disabilities as outcasts, and many felt that providing assistance was the responsibility of churches or foreign NGOs.

National/Racial/Ethnic Minorities.—The population consists of more than 200 ethnic groups, among which there were frequent and credible allegations of discrimination. Ethnic groups commonly gave preferential treatment to fellow ethnic group members in business and social practices. Members of the president's Beti/Bulu ethnic group from southern parts of the country held key positions and were disproportionately represented in the government, state-owned businesses, the security forces, and the ruling CPDM party. The minister of defense, the delegate general for national security, and the minister of posts and telecommunications were all from the South Region.

In July 2008, in Akonolinga, Center Region, several persons were injured and killed in ethnically motivated violence. The violence occurred when a soccer team from the city of Dschang, Menoua Division, West Region, a region predominated by ethnic Bamilekes, defeated the local soccer team. Members of the Yebekolo tribe sought out and beat ethnic Bamilekes in Akonolinga. The government investigated the incident and arrested 40 persons. On June 16, the Akonolinga High Court held the first hearing on the case. However, the judge continued to postpone the trial as the lawyers failed to show up and the prosecutor failed to bring exhibits to the court. The 40 persons were still detained at year's end.

In 2008 there were reports that Alhadji Baba Ahmadou Danpullo, a wealthy businessman with ties to the government, deceived M'Bororo women into sexual situations, forcibly displaced the M'Bororo and seized their land and cattle, and used his money and influence with the government to order the beating and false imprisonment of members of the M'Bororo.

The commission established in 2007 to demarcate the borders between the Oku and the Mbessa tribes in both Bui and Boyo divisions in the North West Region began work in 2008 and continued its action during the year.

In 2007 the Bui Oku burned dozens of Mbessa houses, displacing more than 500 persons. The Oku claimed that the Mbessa were farming on their land. They also accused them of having caught and raped Oku women, a charge disputed by local authorities. Local territorial command officials reported that the investigation, although ongoing at year's end, was complicated by the allegations that traditional rulers threatened potential witnesses. The government continued efforts to settle the dispute.

Northern areas of the country continued to suffer from ethnic tensions between the Fulani (or Peuhl) and the Kirdi. The Kirdi remained socially, educationally, and economically disadvantaged relative to the Fulani in the three northern regions.

Traditional Fulani rulers, called Lamibe, continued to wield great power over their subjects, often including Kirdi, sometimes subjecting them to tithing and forced labor. Isolated cases of slavery were reported, largely Fulani enslavement of Kirdi. For example, many Fulani considered themselves rich and "hired" Kirdi to perform tasks that the Fulani think are menial and beneath them.

Natives of the North West and South West regions tended to support the opposition SDF party and consequently suffered disproportionately from human rights abuses committed by the government and its security forces. The anglophone community was underrepresented in the public sector. Although citizens in certain francophone areas—the East, Far North, North, and Adamaoua Regions—voiced

similar complaints about under-representation and government neglect, anglophones said they generally believed that they had not received a fair share of public sector goods and services within their two regions. Some residents of the anglophone region sought greater freedom, equality of opportunity, and better government by regaining regional autonomy rather than through national political reform, and have formed several quasi-political organizations in pursuit of their goals.

Police and gendarmes subjected illegal immigrants from Nigeria and Chad to harassment and imprisonment. During raids, members of the security forces extorted money from those who did not have regular residence permits or who did not have valid receipts for store merchandise. Some members of the country's large community of Nigerian immigrants complained of discrimination and abuse by government officials. Illegal immigrants were subject to harassment on some occasions, although at a lower level than in previous years, mainly due to the DGSN who adopted a zero tolerance policy regarding harassment by his officers.

Indigenous People.—An estimated 50,000 to 100,000 Baka, Bakola, and Bagyeli (Pygmies) primarily resided (and were the earliest known inhabitants) in the forested areas of the South and East regions. While no legal discrimination exists, other groups often treated the Baka as inferior and sometimes subjected them to unfair and exploitative labor practices. Baka reportedly continued to complain that the forests they inhabit were being logged without fair compensation. Some observers believed that sustained logging was destroying the Baka's unique, forest-oriented belief system, forcing them to adapt their traditional social and economic systems to a more rigid modern society similar to their Bantu neighbors.

The government has increased efforts, such as education about birth certificates, national identity cards, and construction of school and health care facilities, to facilitate an easier transition to modern day society for pygmies who are interested in adapting while also preserving important aspects of their culture.

Local Baka along the path of the Chad-Cameroon pipeline continued to complain that they were not compensated fairly for their land or had been cheated by persons posing as Baka representatives. In 2006 the committee in charge of the follow-up on the pipeline organized an evaluation seminar to determine compensation for the Bakola and Bagyeli. The committee agreed that despite improved access to education and healthcare, much remained to be done to improve living conditions for the pygmies. No further developments were reported during the year. In October 2008 the Fondation Camerounaise d' Actions Rationalisees et de Formation sur l' Environnement conducted a study in 28 villages in the Center and South regions that confirmed the pygmies' complaints (Kribi Region) that they had not yet been fully compensated. The final conclusions of the study were not released by year's end.

An estimated 95 percent of Baka did not have national identity cards; most Baka could not afford to provide the necessary documentation to obtain national identity cards, which were required to vote in national elections. In 2005 the Ministry of Social Affairs launched the Project to Support the Economic and Social Development of Bakas in South Region. The mission of the project was to allow the issuance of birth certificates and national identity cards to 2,300 Bakas, as well as to help register hundreds of students in school. On August 14, the regional coordinator of the National Program for Participative Development, the implementing agency, revealed that they were able to assist with 2,000 birth certificates and approximately 1,000 national identity cards. The program was ongoing at year's end.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Homosexual activity is illegal and punishable by a prison sentence of six months to five years and a fine ranging from 20,000 to 200,000 CFA (\$40 to \$400). Homosexual persons generally kept a low profile because of the pervasive societal stigma, discrimination, and harassment as well as the possibility of imprisonment.

Authorities prosecuted at least two persons under this law during the year. Homosexual persons suffered from harassment and extortion by law enforcement officials. False allegations of homosexuality were used to harass enemies or to extort money.

On September 14, the instructing magistrate of the Wouri High Court in Douala ordered the release of Yves Noe Ewane for lack of evidence, after he had spent four months in jail. The police arrested Ewane on May 4, and on May 19, the prosecutor placed him under pretrial detention on homosexuality charges.

On November 10, the Douala police arrested Alain Nje Penda on homosexuality charges. He remained in jail awaiting trial at year's end.

In 2007 the Bonanjo High Court refused to release six Douala men held in New Bell Prison on charges of homosexuality. In January 2008 the judge held the first

hearing on the case but adjourned it pending further discovery. There were no further developments on the case by year's end.

Several lesbian, gay, bisexual, and transgender organizations operated in the country. However, there were no reports of discrimination based on sexual orientation in employment, housing, access to health care, or education.

Other Societal Discrimination.—Persons infected with HIV/AIDS were often discriminated against and isolated from their families and society due to the societal stigma and lack of education about the disease.

Section 7. Worker Rights

a. The Right of Association.—The law allows workers to form and join trade unions; however, the government imposed numerous restrictions. The law does not permit the creation of a union that includes both public and private sector workers, or the creation of a union that includes different, even closely related, sectors.

The law requires that unions register with the government, permitting groups of no less than 20 workers to organize a union by submitting a constitution, bylaws, and non-conviction certifications for each founding member. The law provides for prison sentences and fines for workers who form a union and carry out union activities without registration. Government officials stated that the government provided union certification within one month of application; however, independent unions, especially in the public sector, found it difficult to register. For example, the Syndicat National des Enseignants du Supérieur was not officially registered but operated without government interference.

Registered unions were subject to government interference. The government chose the unions with which it would bargain; some independent unions accused the government of creating small nonrepresentative unions amenable to government positions and with which it could negotiate more easily. Some sections of labor law had no force or effect because the presidency had not issued implementing decrees.

The labor code explicitly recognizes workers' right to strike, but only after mandatory arbitration, and workers exercised this right during the year. During the year strikes occurred at some universities, hospitals, the national water company, the Cameroon Bar Association, the Civil Engineering Equipment company, the national railroad company, and among motorcycle taxi drivers. Arbitration decisions are legally binding, but often unenforceable when the parties refuse to cooperate. It was not uncommon for such decisions to be overturned or simply ignored by the government or employers. The provision of the law allowing persons to strike does not apply to civil servants, employees of the penitentiary system, or workers responsible for national security. Instead of strikes, civil servants were required to negotiate grievances directly with the minister of the appropriate department in addition to the minister of labor.

b. The Right to Organize and Bargain Collectively.—The constitution and law provide for collective bargaining between workers and management as well as between labor federations and business associations in each sector of the economy.

On January 28, the minister of labor and social insurance presided over the signing of a collective bargaining agreement between the graphic arts sectors. In May the minister of labor and social insurance presided over the signing of a collective bargaining convention for the agricultural sector.

When labor disputes arose, the government chose the labor union with which it would negotiate, selectively excluding some labor representatives. Once agreements were negotiated, there was no mechanism to enforce implementation; some agreements between the government and labor unions were ignored by the government.

For example, in December transportation unions expressed their disappointment at the government because it did not fulfill all the promises (lower gas prices, terminate police and gendarme harassment of transporters on the roads) that it made following the February 2008 strikes. Unions' threats to launch a nationwide strike encouraged the government to negotiate again, with new commitments.

The constitution and law prohibit antiunion discrimination, and employers guilty of such discrimination were subject to fines of up to approximately one million CFA (\$2,000). However, employers found guilty were not required to compensate workers for discrimination or to reinstate fired workers. The MINLESI did not report any complaints of antiunion discrimination during the year, although there were credible press reports of harassment of union leaders.

In January Madeleine Nkoulou, a nurse under contract and a leader of the National Union of Medical and Health Services Employees, was dismissed from her job at the Regional Hospital of Ebolowa, South Region, because she was active in organizing a strike. She filed a complaint with the MINLESI, and had not received a response by year's end.

The law provides for industrial free zones except for the following provisions: the right to determine salaries according to productivity, the free negotiation of work contracts, and the automatic issuance of work permits for expatriate workers.

c. Prohibition of Forced or Compulsory Labor.—The constitution and law prohibit forced or compulsory labor, including by children; however, there were reports that such practices occurred. Prison authorities arranged for prison inmates to be contracted out to private employers or used as communal labor for municipal public works. Money generated from these activities was usually pocketed by prison administrators and not given to detainees.

Hereditary servitude occurred in the Northern regions. Slavery is illegal in the country, and the law provides punishment of 10 to 20 years' imprisonment for persons accused of slavery or trafficking in persons for the purposes of forced labor. However, there were credible reports of hereditary servitude by former slaves in some chiefdoms in the North Region. For example, there were reports that the Lamido (the traditional Muslim chief) of Rey Bouba in the North Region had hereditary servants inside his compound. Although the Lamido was replaced by his son in 2004, the hereditary servants remained, reportedly by choice for cultural reasons.

In the South and East regions, some Baka, including children, continued to be subjected to unfair and exploitative labor practices by landowners, including forced work on the landowners' farms during harvest seasons without payment.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law generally protects children from exploitation in the workplace and specifies penalties ranging from fines to imprisonment for infringement; however, child labor remained a problem. The government specifically prohibits forced and compulsory labor by children, but there were reports that it occurred in practice.

The law sets a minimum age of 14 for child employment, bans night work, and enumerates tasks that children under the age of 18 cannot legally perform. These include moving heavy objects, dangerous and unhealthy tasks, working in confined areas, and prostitution. The law also states that a child's work day cannot exceed eight hours. Employers were required to train children between the ages of 14 and 18, and work contracts must contain a training provision for minors. The prohibition against night work was not effectively enforced.

Child labor existed chiefly in urban areas. In the informal sector, children worked as street vendors, car washers, and engaged in agricultural work and domestic service such as working on tea, banana, and palm oil plantations. Some children also worked in mines and quarries. Many urban street vendors were less than 14 years of age. Children worked as household help, and some children were involved in prostitution. In the north there were credible reports that children from needy homes were placed with other families to do household work for pay.

There were reports that some parents gave their children to "marabouts" (traditional religious figures) in Maroua in the Extreme North, to learn the Koran and to prepare them to become "marabouts" themselves. However, there were reports that some of these children were kept in leg chains and subjected to forced labor.

Parents viewed child labor as both a tradition and a rite of passage. Relatives often employed rural youth, especially girls, as domestic helpers, and these jobs seldom allowed time for the children to attend school. In rural areas, many children began work at an early age on family farms. According to some NGOs, the cocoa industry also employed child laborers. These children originated, for the most part, from the three northern and the North West regions.

The Ministry of Social Affairs and MINLESI were responsible for enforcing existing child labor laws through site inspections of registered businesses; although sporadic inspections occurred during the year, the government did not allocate sufficient resources to support an effective inspection program. Moreover, the legal prohibitions do not include family chores, which in many instances were beyond a child's capacity. The government employed 58 general labor inspectors to investigate child labor cases.

The ILO continued to work with specific contact persons in various ministries and agencies involved in antitrafficking activities; it also conducted nationwide investigations and cooperated with local organizations.

e. Acceptable Conditions of Work.—In June 2008 the government increased the minimum wage in all sectors to 28,246 CFA (\$56) per month. However, the minimum wage did not provide for a decent standard of living for an average worker and family. MINLESI was responsible for enforcing the minimum wage nationally.

The law establishes a standard workweek of 40 hours in public and private non-agricultural firms and 48 hours in agricultural and related activities. There are exceptions for guards and firemen (56 hours a week), service sector staff (45 hours a week), and household and restaurant staff (54 hours a week). The law mandates at

least 24 consecutive hours of weekly rest. Premium pay for overtime ranges from 120 to 150 percent of the hourly pay depending on amount and whether it is for weekend or late-night overtime. There is a prohibition on excessive compulsory service. MINLESI inspectors were responsible for monitoring these standards; however, they lacked the resources for a comprehensive inspection program.

The government sets health and safety standards. MINLESI inspectors and occupational health physicians were responsible for monitoring these standards; however, they lacked the resources for a comprehensive inspection program. On April 28, during a commemoration of the 13th African Day for the Prevention of Professional Risks and the 6th World Day for Security and Health at Work, the minister of labor and social security expressed concern that work-related accidents were on the rise. On September 22, the National Commission on Health and Safety in the Workplace expanded the list of occupational diseases from 44 to 99. The law does not provide workers with the right to remove themselves from situations that endanger health or safety without jeopardizing their continued employment.

CAPE VERDE

Cape Verde, with a population of approximately 508,600, is a multiparty parliamentary democracy in which constitutional powers are shared between the elected head of state, President Pedro Verona Rodrigues Pires, and Prime Minister Jose Maria Neves. Pires was reelected for a second five-year term in 2006 in generally free and fair elections. The Supreme Court of Justice and National Electoral Commission also declared the 2006 nationwide legislative elections generally free and fair. Although civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the police forces committed abuses against detainees.

The government generally respected the human rights of its citizens; however, problems were reported in some areas: police abuse of detainees, police impunity, poor prison conditions, lengthy pretrial detention, excessive trial delays, violence and discrimination against women, child abuse, and some instances of child labor.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution and law prohibit such practices; however, there were credible reports that in some instances police beat persons in custody and detention. In most cases, authorities took action against the abusers. However, there were credible reports that police failed to report to their superiors some of the abuses that occurred in police stations.

Prison and Detention Center Conditions.—Prison conditions were poor, and facilities were severely overcrowded. Sanitation and medical assistance were poor; however, doctors and nurses were available, and prisoners were taken to public hospitals for serious medical problems. Psychological problems among prisoners were common.

During the year there were no known deaths in prison from adverse conditions. There were a total of approximately 1,300 prisoners and detainees in the country's eight prisons. The maximum capacity of Praia's prison is 800 prisoners.

In prisons juveniles were sometimes held together with adults in certain facilities, but pretrial detainees generally were held separately from convicted prisoners.

In December 2008 a fellow prisoner alleged to be a professional hit man hired by drug traffickers murdered a convicted drug trafficker who was collaborating with authorities. The case remained under investigation.

The 2005 prisoner riot case at the Sao Martinho Prison in the capital city of Praia in which one prisoner was killed and three persons (including a guard) injured was pending final resolution. The prison director, who left for another country after being formally accused of allowing the mistreatment of prisoners under his supervision, subsequently was sentenced in that country to three years' imprisonment for perjury related to his immigration status.

The government permitted formal visits by international human rights monitors to prisons and visits to individual prisoners. Local nongovernmental organizations

(NGOs) and media representatives frequently visited the prisons and reported on prison conditions.

Each municipality has police stations capable of holding detainees until they are transferred to prison. There were no deaths as a result of adverse conditions in jails and detention centers, but separation of prisoners based on trial status, gender, and age was not always possible due to space limitations.

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

Role of the Police and Security Apparatus.—The Public Order Police are under the Ministry of Internal Administration and are responsible for law enforcement. The Judicial Police are under the Ministry of Justice and are responsible for major investigations. Logistical constraints—including lack of vehicles, limited communications equipment, and poor forensic capacity—limited police effectiveness. Corruption was not a significant problem.

Police abuses were investigated internally, and these investigations resulted occasionally in legal action against the perpetrators. During 2008 the government provided training to increase police effectiveness. Police impunity, however, remained a problem.

Arrest Procedures and Treatment While in Detention.—Police may not make arrests without a warrant issued by an authorized official unless a person is caught in the act of committing a felony. The law stipulates that a suspect must be brought before a judge within 48 hours of arrest. The law provides a detainee with the right to prompt judicial determination of the legality of his or her detention, and the authorities respected this right in practice. Attorneys inform detainees of the charges against them. There was a functioning bail system. Detainees were allowed prompt access to family members and to a lawyer of their choice and, if indigent, to one provided by the government.

Nonetheless, the length of pretrial detention was a serious problem. One concern arose from differing interpretations of the law authorizing extended pretrial detention in certain circumstances. Some courts have read this provision broadly, while others have opted for a narrower interpretation. This resulted in situations where detainees facing identical charges were held for different lengths of time based on the prosecutor's and the judge's interpretation of the law. At year's end no standard timelines had been set for pretrial detentions. The judicial system also was overburdened and understaffed, and criminal cases frequently ended when charges were dropped by the citizen before a determination of guilt or innocence was made.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice. However, the judicial system lacked sufficient staffing and was inefficient.

The judicial system is composed of the Supreme Court of Justice (SCJ), which is the court of last resort and also handles administrative cases, and the regional courts. The National Assembly amended the constitution in February to increase the number of Supreme Court judges from five to seven with a view to expediting the resolution of cases. Of the seven Supreme Court judges, one is appointed by the president, two by the National Assembly, and four by the Superior Judiciary Council. Judges are independent and may not belong to a political party. Regional courts adjudicate minor disputes on the local level in rural areas. The civilian courts have jurisdiction over state security cases. Criminal courts handle violations of criminal law, including the electoral laws, while civil courts handle civil and commercial suits. There is also a military court; it cannot try civilians. The military court provides the same protections as civil criminal courts.

Trial Procedures.—The law provides for the right to a fair and public nonjury trial. Defendants have the right to be present and to consult with an attorney in a timely manner; free counsel is provided for the indigent. Defendants are presumed to be innocent until proven guilty, have the right to confront or question witnesses against them, and have the right to present witnesses in their defense. Defendants also can present evidence on their own behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases and can appeal regional court decisions to the SCJ. The law extends the above rights to all citizens.

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

Civil Judicial Procedures and Remedies.—The ordinary courts are impartial and independent, and handle civil matters including lawsuits seeking damages for, or an injunction ordering the cessation of, a human rights violation. Both administrative and judicial remedies are available for alleged wrongs.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and law prohibit such actions, and the government generally respected these prohibitions.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution and law provide for freedom of speech and of the press, and the government generally respected these rights. The independent press was active and expressed a variety of views without direct restriction.

Internet Freedom.—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in peaceful expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics for 2008, approximately 21 percent of the country's inhabitants used the Internet. Citizens in the cities had access to the Internet at cybercafes.

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

b. Freedom of Peaceful Assembly and Association.—The constitution and law provide for freedom of assembly and association, and the government generally respected these rights.

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

Societal Abuses and Discrimination.—There was no known Jewish community, and there were no reports of anti-Semitic acts or discrimination against members of any religious group.

At the end of the year the SCJ had not issued a decision in the 2006 case against four Seventh-day Adventists accused of desecrating a Roman Catholic Church.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution and laws provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

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

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. The country is also a party to the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. The government grants refugee status and asylum when petitioned under the established system. In practice, the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

During the year the government provided temporary protection to 11 individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol.

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

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

Elections and Political Participation.—In the 2006 legislative elections, individuals and parties were free to declare their candidacies. The ruling African Party for the Independence of Cape Verde (PAICV) won 41 seats in the National Assembly with 52 percent of the vote; the main opposition party, Movement for Democracy (MPD), won 29 seats; and the Union for a Democratic and Independent Cape Verde won the remaining two seats. International observers characterized the elections as generally free and fair, despite some irregularities. Alleging fraud the MPD unsuccessfully contested the results by filing suit with the SCJ to annul the elections.

Presidential elections were also held in 2006, and individuals and parties were free to declare their candidacies. International observers characterized the conduct of the election as free and fair. The incumbent, President Pires, won a second term

with 51 percent of the vote; MPD candidate Carlos Veiga obtained 49 percent of the vote. Veiga then petitioned the SCJ to annul the presidential election results, stating that the elections were not free or transparent. The SCJ ruled there were no legal grounds for annulment and confirmed President Pires as the winner.

Although the National Electoral Commission (CNE) and the SCJ declared the legislative and presidential elections generally free and fair, they also recognized some irregularities in both elections. The CNE noted that the electoral code needed to be amended to provide greater security and transparency. It also cited needs for stricter, more consistent voter identification and registration processes and the adoption of indelible ink on ballots.

There were 11 women in the 72-seat National Assembly, eight women in the 20-member cabinet, and three women on the SCJ.

Section 4. Official Corruption and Government Transparency

Official corruption carries a criminal penalty of up to 15 years' imprisonment. There were no new reports of government corruption during the year, but the World Bank's 2008 Worldwide Governance Indicators reflected that government corruption was a problem.

The law provides for freedom of access to governmental information without restriction, provided that privacy rights are respected. The government in practice frequently granted access.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

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

There were several private, independent human rights groups, including the National Commission of the Rights of Man, the Ze Moniz Association, and the Alcides Barros Association.

The government has a positive attitude towards international NGOs. In November the International Labor Organization (ILO) sent an expert to provide training on constitutional obligations related to reporting requirements under ratified ILO conventions.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, religion, disability, language, or social status; however, the government did not enforce these provisions effectively, and violence and discrimination against women and abuse of children were serious problems.

Women.—Rape, including spousal rape, is a criminal offense, but the government generally did not enforce the law effectively. The penalty for rape is eight to 16 years' imprisonment. Penalties are higher if the victim is under the age of 16 or if the offender took advantage of job responsibilities in a prison, hospital, school, or rehabilitation center, or with persons under his or her authority.

Domestic violence against women, including wife beating, was widespread. The government and civil society encouraged women to report criminal offenses such as spousal abuse, which is punishable by two to 13 years' imprisonment; however, long-standing social and cultural norms as well as lack of shelter housing inhibited victims from doing so.

While there were mechanisms such as legal counseling, psychological care, specific police attention, and family courts to deal with spousal abuse, these mechanisms neither effectively prevented violence nor ensured the punishment of those responsible. Women claimed that police often ignored the legal complaints they filed against their husbands. Nevertheless reports to police of domestic violence continued to increase during the year. The police and judicial system sometimes delayed acting on abuse cases. Violence against women was the subject of extensive public service media coverage.

The government-run Cape Verdean Institute of Equity and Gender, the Women Parliamentarians Network, and local women's organizations with foreign diplomatic support promoted legislation to address gender-based violence.

Prostitution is legal, except for prostitution of minors, and the government generally did not enforce that prohibition. Sex tourism was a growing problem, and there are no laws to address it.

Sexual harassment was common and not culturally perceived as a crime. It is prohibited by law with a penalty of one year in prison, but the government did not effectively enforce this law.

The Civil Code grants all citizens the freedom to make decisions regarding the number, spacing, and timing of their children without discrimination, coercion, or violence. All citizens have access to contraception. Family planning centers throughout the country distribute some contraceptives free of charge to the public. These centers provide skilled assistance and counseling both before and after childbirth and in cases of sexually transmitted infections, including HIV.

Women enjoy the same legal rights as men, including rights under family law, property law, and in the judicial system. Despite legal prohibitions against sex discrimination and provisions for full equality, including equal pay for equal work, discrimination against women continued. The Cape Verdean Institute of Equity and Gender worked for the protection of legal rights of women. The Women Jurists' Association provided free legal assistance to women throughout the country suffering from discrimination, violence, and spousal abuse.

Children.—Citizenship can be derived either by birth within the country or from one's parents. The government registered all births immediately after they were reported. Failure to register did not result in denial of public services.

The government provided free and universal education for all children aged six to 12. Education was compulsory until age 11; however, secondary education was free only for children whose families had an annual income below 147,000 escudos (approximately \$1,950). There was a 94 percent primary education enrollment rate for all children; the enrollment rate in secondary school for all children was 70 percent.

Child abuse and sexual violence against children were serious problems, and the media regularly reported on those issues. Child labor was also a problem (see section 7.d.). Government efforts to address these problems were inadequate. In 2007 the Institute of Children and Adolescents (ICCA), a government organization, carried out a study on the child labor situation and concluded that the practice of using children to collect sand for use in construction should be considered as one of the worst forms of child labor.

The ICCA also found that children tend to work at the behest of their families, and that child labor on the islands is intimately linked to the need to supplement family income. It is believed, however, that the vast majority of these children performed work outside of school hours and attended school.

Trafficking in Persons.—The law prohibits trafficking in minors, but not adults, and there were reports that persons were trafficked to and from the country. Police reports alleged that the country was a transit point for trafficking in persons from West African countries to the Canary Islands and to Europe. However, there was no additional reported evidence to support these reports.

Sentences for trafficking in children range from 12 to 16 years' imprisonment. There were no prosecutions of such cases during the year. The Ministry of Justice and the Ministry of Internal Administration are responsible for combating human trafficking. The government did not extradite citizens who were accused of human trafficking in other countries.

Persons With Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, and the government effectively enforced these provisions. There are no laws or programs to ensure access to buildings for persons with disabilities. Several NGOs, including an association for the blind, actively advocated for the rights of persons with disabilities.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Legal protections helped ensure homosexual conduct was protected under the law; however, societal discrimination based on sexual orientation or gender identity continued to be a problem. There were no lesbian, gay, bisexual, or transgender persons' NGOs active in the country.

Other Societal Violence or Discrimination.—There were no reports of societal violence or discrimination against persons with HIV/AIDS.

Section 7. Worker Rights

a. The Right of Association.—The law allows workers to form and to join unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice. There are no restrictions except for employees of diplomatic missions. Approximately 22 percent of workers were unionized. The law provides union members with the right to strike. Nonetheless, the government may invoke a "civil request" through which it may require the striking union to continue providing specified minimum services in an emergency or if provision of basic services is threatened.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law provides for the right of workers to bargain collectively; however, there was very little collective bargaining. There were no collective bargaining agreements and no collective labor contracts completed during the year.

The law prohibits antiunion discrimination.

There are no special laws or exemptions from regular labor laws within the export processing zone that encompasses the entire country.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—There are laws and policies to protect children from exploitation in the workplace, but the government did not implement them effectively. A new labor code was approved in 2008, which lowered the legal minimum age for employment from 16 to 15 years. The code also states children under 15 may be allowed to work as apprentices under specific conditions that do not jeopardize the child's health and development; however, the government rarely enforced either provision. For children under the age of 15, only apprentice contracts are allowed.

The most recent statistics available (2000 census) indicated that an estimated 8,000 children were working as street vendors and car washers in urban centers, and in agriculture, animal husbandry, and fishing in the countryside. It is believed, however, that the vast majority performed work outside of school hours and attended school.

In 2007 the ICCA concluded a study analyzing the child labor situation in the country. The goals of the study were to raise public awareness, to create an action plan to prevent children from entering exploitive work situations, and to encourage children engaged in such labor to stop.

The ministries of justice and labor were responsible for enforcing child labor laws. In practice, however, they seldom did so. There were no government programs to address child labor.

e. Acceptable Conditions of Work.—As the country's largest employer, the government continued to play the dominant role in setting wages. It did not fix wages for the private sector, but salary levels for civil servants provided the basis for wage negotiations in the private sector. For a typical entry-level worker, this wage was approximately 12,000 escudos (\$163) per month. The majority of jobs paid wages that did not provide a worker and family with a decent standard of living; most workers also relied on second jobs and support from their extended family for income.

The law sets the maximum workweek for adults at 44 hours, prohibits excessive compulsory overtime, and requires that a premium be paid for whatever overtime is worked. The law also mandates required rest periods, which vary according to the sector—the minimum is 12 hours. While large employers generally respected these regulations, many domestic servants and agricultural laborers worked longer hours.

The director general of labor conducted sporadic inspections to enforce the labor code and imposed fines on private enterprises that were not in conformity with the law. Nonetheless, the government did not enforce labor laws systematically, and much of the labor force did not enjoy legal protection.

The government has not set occupational health and safety standards; however, there is a general provision in the law that requires employers to provide a healthy and safe work environment. Few industries employed heavy or dangerous equipment. The law does provide workers with the right to remove themselves from situations that endanger health or safety without jeopardizing their continued employment.

CENTRAL AFRICAN REPUBLIC

The Central African Republic (CAR) is a constitutional republic whose population of approximately 4.3 million is governed by a strong executive branch and weak legislative and judicial branches. Armed forces Chief of Staff General Francois Bozize seized power in a military coup in 2003. Elections in 2005 resulted in Bozize's election as president. National and international observers judged the elections to be generally free and fair despite some irregularities. Fighting between factions of armed groups, as well as between armed groups and government security forces, increased, and much of the northwestern, northeastern, and extreme southeastern

parts of the country remained outside of government control. Banditry remained a serious threat to civilians throughout the northern prefectures. Civilian authorities did not maintain effective control over the security forces.

The government's human rights record remained poor. Government abuses included security forces continuing to commit extrajudicial executions in the north; torture, beatings, detention, and rape of suspects and prisoners; impunity, particularly among the military; harsh and life-threatening conditions in prisons and detention centers; arbitrary arrest and detention, prolonged pretrial detention, denial of fair trial; official corruption; occasional intimidation and restrictions on the press; and restrictions on freedom of movement and on workers' rights. Mob violence resulted in deaths and injuries. Societal abuses included female genital mutilation (FGM), discrimination against women and Pygmies; trafficking in persons; forced labor; and child labor, including forced child labor. Freedom of movement remained limited in the north because of actions by security forces, armed bandits, and armed groups. Sporadic fighting between government forces and armed groups continued to internally displace persons and increase the number of refugees.

Armed groups, some of which were unidentified, continued to kill, beat, and rape civilians and loot and burn villages in the north. Armed groups kidnapped, beat, raped, and extorted money from local populations. There were reports of children as young as 12 serving as fighters in armed groups.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents killed members of opposing political groups, but soldiers, particularly the presidential security forces (presidential guard), killed civilians they suspected of being road bandits or supporting armed groups. Both government security forces and armed groups killed civilians in the course of conflict in the north (see section 1.g.).

During the year there were numerous credible reports that elements of the security forces, including the Central African Armed Forces (FACA), and particularly the presidential guard, committed unlawful killings while apprehending suspects and, allegedly, in connection with personal disputes or rivalries. Authorities appeared unwilling to prosecute personnel of the presidential guard for extrajudicial killings.

On February 5, Lieutenant Olivier Koudemon, alias Gbangouma, and two other members of the presidential guard confronted Commissioner of Police Daniel Sama over the commissioner's right to carry a firearm in Bangui while off duty. An altercation ensued and the commissioner was beaten to death. The permanent military tribunal (PMT) heard the case in April and found sufficient grounds to try the three. At year's end, Gbangouma and the other two remained free. No additional information was available.

The Central Office for the Repression of Banditry (OCRB) comprises a special antibanditry police squad and an investigative and intelligence service operated by the Ministry of Defense in and around Bangui. It continued to commit extrajudicial killings. For example, on April 9, OCRB officers detained suspected thieves Maxime Banga and Adam Demori and transported them to OCRB headquarters. An OCRB unit subsequently took them to an unknown destination. By 6 p.m. that day, the corpses of Banga and Demori were left at the mortuary of Bangui community hospital. Authorities took no action against those responsible.

In April the PMT, which is responsible for adjudicating crimes allegedly committed by military personnel, ruled on 27 of the 33 cases involving military service members arrested for crimes from murder to desertion and theft of military equipment.

On June 25, a gendarme and a member of the Research and Investigation Services (SRI) struck and killed a local butcher in the PK 12 market of Bangui. By year's end, neither had been tried.

There were no reports of the government prosecuting any OCRB personnel for killings committed in 2008 or 2007.

There were no developments in the case of presidential guard member Boris Namsene, who shot and killed five persons in April 2008 in Bangui before his apparent murder three days later.

Armed bandits have contributed to instability for many years and continued to kill civilians. In the central part of the country, armed groups known as "zaraguinas" engaged in widespread kidnappings, at times killing family members of individuals who could not or would not pay ransom. Although information about these armed groups and highway bandits was difficult to obtain, aid workers and

UN officials described them as a combination of common criminals and remnants of insurgent groups from the recurring conflicts in the region.

In December 2008 Nganatouwa Goungaye Wanfiyo, a leading human rights activist and one of the lawyers for the victims in the International Criminal Court (ICC) proceedings against Congolese politician and armed group leader Jean-Pierre Bemba, died in an automobile collision near Sibut. While there was no evidence of murder, at least one nongovernmental organization (NGO) said it believed that the incident was not an accident, and several NGOs called for an investigation regarding the manner in which the authorities handled the accident. No investigation had begun by year's end.

Civilians reportedly continued to kill persons suspected of being sorcerers or witches during the year.

An international NGO reported that on June 20, members of the armed group Popular Army for the Restoration of the Republic (APRD) tortured a man near Kaga Bondoro accused of bewitching his nephew. Under torture, the man named two other individuals whom he said helped him bewitch his nephew. The APRD subsequently arrested the two individuals and beat them to death. At year's end, the man who was originally tortured was awaiting trial on charges of witchcraft. Authorities had taken no action against those responsible for the two men's deaths.

In June several members of the UN Human Rights Council's (UNHRC's) Working Group on the Universal Periodic Review (UPRWG) expressed concern over mob killings of so-called witches and the arrest of persons accused of alleged witchcraft. They recommended that the government remove witchcraft from the list of crimes under the penal code, launch a campaign against violence against perceived witches, and protect victims of such attacks. However, a new penal code adopted in September retained clauses criminalizing witchcraft.

On April 12, following the theft of cattle, street battles between M'bororo cattle raisers and beef wholesalers in Bangui resulted in more than 25 deaths. Women and children were among the fatalities. No additional information was available at year's end.

b. Disappearance.—In late December, Charles Massi, a member of the armed group Convention of Patriots for Justice and Peace (CPJP) and a former minister, was reported missing. His wife and members of his political party told international media that the Chadian government arrested Massi and turned him over to Central African authorities, who they said tortured and murdered him. At year's end, there was no further information about his whereabouts.

During the year unidentified armed groups kidnapped M'bororo children and young adults and held them for ransom.

In November unidentified bandits in Birao abducted two expatriate NGO employees, and at year's end they continued to hold them for an unknown ransom.

By year's end authorities had not charged anyone for the temporary abduction of two doctors and four other medical personnel by unidentified gunmen in Bombole in February 2008 (see section 1.g.).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the law and the constitution prohibit torture and specify punishment for those found guilty of physical abuse, police and security services continued to torture, beat, and otherwise abuse criminal suspects, detainees, and prisoners, according to local human rights groups such as the association against torture (ACAT) and the Central African human rights league (LCDH). The government did not punish police who tortured suspects, and impunity remained a serious problem. Family members of victims and human rights groups, including the Central African human rights observatory (OCDH), filed complaints with the courts, but authorities took no action. Members of the military raped, robbed, and abused civilians in conflict and nonconflict areas.

According to ACAT, torture and beating of detainees occurred frequently in detention centers run by the SRI and the OCRB. Police most commonly employed a form of torture known as "le cafe," the repeated beating of the soles of an individual's feet with a baton or stick. Immediately after administering the beating, police would sometimes force the victim to walk on badly bruised feet and, if the individual was unable to do so, they continued beating the individual.

For example, in January police arrested Angele Ndarata, 16 years old, for sorcery. A court clerk illegally authorized the parents of the alleged victim to beat Ndarata on June 20. They burned her hands, arms, and sexual parts, and she received no medical care for two days. On June 29, the OCDH provided Ndarata with a lawyer and lodged a complaint against those who authorized and perpetrated the torture. At year's end Ndarata was home awaiting trial. Authorities briefly imprisoned the clerk, but did not take action against Ndarata's parents.

On February 27, a presidential guard member in Bossaboa used a machete to cut three fingers off a man's hand after accusing him of stealing electrical cable.

There was no further information about the severe beating of a man in Bangui by Corporal Zilo and five of his FACA colleagues in July 2008. The man remained incapacitated by his injuries, and at year's end the authorities had not investigated the incident.

Authorities took no action in any of the following cases of abuse by members of security forces in Bangui in 2008: the beating of a man and his sister by Lieutenant Olivier Koudemon, a member of the presidential guard, in August; the severe beating of a suspect at OCB and SRI police headquarters in October; or the beating of several individuals by Koudemon in December.

Civilians continued to suffer mistreatment in territories controlled by armed groups (see section 1.g.).

Members of security forces, particularly the military, reportedly raped civilians, although throughout the country sexual assaults were rarely reported. Security personnel rarely were punished, and suspects either escaped from police custody or were released by fellow soldiers or other security agents.

There were no further developments in the ongoing ICC investigation into the 2005 charges against former president Ange-Felix Patasse and others for crimes against humanity, including rape, committed prior to and during the 2003 coup.

Civilians continued to take vigilante action against suspected thieves, poachers, and some persons believed to be Chadian combatants.

Civilians reportedly continued to injure and torture persons suspected of being sorcerers or witches. Mob violence was widespread and cases were underreported. By year's end authorities had taken no action against those responsible for the cases detailed below.

An international NGO reported that on June 8, in the village of Ngoumourou, APRD and village members tied a woman to a tree and beat her for allegedly practicing witchcraft.

An international NGO reported that on June 16, members of a community in Kaga Bando beat a woman accused of witchcraft and her child.

On August 28, the Office of the UN High Commissioner for Refugees (UNHCR) in Dekoa intervened to rescue 13-year-old Vivian Ngoupande after a mob in her village beat and whipped her. The village chief accused her of, and interrogated her for, allegedly killing four persons. The gendarmes held her for three days but refused to provide her food because they feared her alleged powers. The regional prosecutor asked the UNHCR to make an emergency intervention, and a local priest assumed temporary charge of her. At year's end no additional information was available.

Prison and Detention Center Conditions.—Prison conditions were extremely harsh and in some cases life threatening. Prison conditions outside Bangui generally were even worse than those in the capital. Police, gendarme investigators, and presidential guards assigned as prison wardens continued to subject prison inmates to torture and other forms of inhuman, cruel, and degrading treatment.

Prison cells were overcrowded, and basic necessities, including food, clothing, and medicine, were inadequate and often confiscated by prison officials. Prisoners depended on family members to supplement inadequate prison meals and sometimes were allowed to forage for food near the prison. According to a number of international observers and prison officials, prison detainees outside Bangui received no food from prison authorities and sometimes had to pay bribes to prison guards to secure food brought to them by their relatives. As in previous years, there continued to be reports of deaths in prison due to adverse conditions and negligence, including lack of medical treatment and inadequate food. According to credible sources, from November 2008 to February 2009, inmates in prisons located in Bouar, Baoro, Baboua, Carnot, Berberati, and Nola lacked all necessities. The situation led to the deaths of some inmates as well as multiple escape attempts.

A census conducted by the UN Development Program (UNDP) in Bozoum Prison in January and February indicated that 80 percent of prisoners complained of shortage of food.

Prisoners frequently were forced to perform uncompensated labor (see section 7.c.).

Male and female prisoners were held in separate facilities in Bangui. Elsewhere, male and female prisoners were housed together, but in separate cells. Juveniles were sometimes held with adult prisoners. For example, in September observers found minors between the ages of 12 and 16 among the adult prisoners at Ngaragba central prison in Bangui. In the same month, a 12-year-old boy from Ndele, arrested by the FACA during military maneuvers, was detained at the SRI for an extended period.

Pretrial detainees were not held separately from convicted prisoners.

As of December 31, there were 2,145 prisoners in the country. There were two prisons in Bangui, Ngaragba for men and Bimbo Central Prison for women. Inmates with infectious diseases were not segregated from other inmates. A nurse was available at both Bangui prisons for inmates needing medical care. Detainees and inmates at both prisons received one meal per day. Food was insufficient and prisoners complained of inferior ingredients. Inmates slept on the floor or on thin matting provided by families or charities. Authorities at both Bangui prisons permitted detainees' families to make weekly visits.

As of December, there were 308 inmates in Ngaragba Prison, most of whom are pretrial detainees. Several detainees had been held for seven months without appearing before a judge. The more crowded cells each held approximately 30 to 40 inmates. Prisoners there usually slept on bare concrete, and complained that water supplies were inadequate. In the section reserved primarily for educated prisoners and former government officials suspected or convicted of financial crimes, cells held four to eight persons.

As of December Bimbo central prison held 15 female inmates, most of whom were pretrial detainees. Several had been detained for months and had not appeared before a judge; few had lawyers. Prison officials allowed sick detainees to be treated by a nurse who visited regularly. Overcrowding was reportedly not a problem, and children younger than five were allowed to stay with their mothers at the prison. There were no reports of rapes or sexual harassment by the all-male prison guard staff.

Constructed in 1948, the eight-room Alindao prison in the community of same name, held 155 prisoners in August—three times as many as could be reasonably accommodated. Men and women were housed in the same facility but in different rooms. Of the inmates, eight were women, and all had been convicted of purported witchcraft. One woman stated that she had been convicted of stealing the soul of a village child.

Conditions in detention centers were worse than those in prisons and in some cases were life threatening. Bangui's police detention centers consisted of overcrowded cells with very little light and leaky buckets for toilets. Poor sanitation and negligence by authorities posed a serious health risk to detainees. According to local human rights groups, lack of training and poor supervision at detention centers were serious problems and continued to result in torture and beatings. Suspects in police and gendarmerie cells had to depend on family, friends, religious groups, and NGOs for food. Detainees with infectious diseases were not segregated from other detainees, and medicine was not available. Suspects generally slept on bare cement or dirt floors. Corruption among guards was pervasive. Guards often demanded between 200 CFA francs (\$0.45) and 300 CFA francs (\$0.67) to permit showers, delivery of food and water, or family visits.

International observers noted that the detention center in the gendarmerie in Bouar had neither windows nor a toilet, only a bucket that was emptied every other day. Detainees at the police facility in Bouar slept chained to each other, a measure the police justified by alleging the detainees were recidivists and undisciplined.

In Bangui male and female detainees were separated; however, this was reportedly not the case in detention facilities in the countryside. There were no separate detention facilities for juvenile detainees, who routinely were housed with adults and often subjected to physical abuse.

The government restricted prison visits by human rights observers. Although international observers were not entirely denied visits, the government delayed responses to visit requests, often for weeks or months. The International Committee of the Red Cross (ICRC) and religious groups routinely provided supplies, food, and clothes to prisoners. The ICRC had unrestricted access to prisoners; however, access for some other observers was at times limited to certain areas of a given facility.

In June members of the UNHRC's UPRWG made recommendations regarding the penal system, including that the government "put an end to torture and mistreatment in prisons and police stations," "strengthen efforts to guarantee minimum conditions for those held in police custody and detention centers in accordance with international standards," and "ensure comprehensive training for prison staff in human rights law."

Adopted by the national assembly during the year, the 2010 government budget did not show a significant increase of resources devoted to prisons or detention centers.

In its national report submission in February to the UNHRC's UPRWG, the government flagged the following improvements: construction and renovation of prison facilities in large towns such as Sibut, Kaga-Bandoro, Bossongoa, Batagafo, Berberati, Bossembele, and Bozoum; training for prison wardens and directors; de-

militarization of prison facilities; and separation of the sexes in Bangui prisons. However, by year's end these projects had not yet begun, due to a shortage of government funding. In addition, in the government's response within the UNHRC's June UPRWG report, the government indicated that it had begun a reform program to create a corps of nonmilitary prison guards to prevent further instances of military prison guards allowing the escape of incarcerated members of the military. However, at year's end, although the UNDP had obtained uniforms and training materials, a lack of funding for the Ministry of Justice prevented the government from hiring new prison guards.

In April approximately 15 domestic NGOs, with assistance from the UNDP, created the coordinated prison action (CAP), an awareness-building mechanism designed to increase monitoring of prison and detention center conditions. The Ministry of Justice said it supported the body in principle but demanded that representatives from the government be included, causing some NGOs to express concern about the CAP's independence. At year's end the Ministry of Justice had not yet agreed to the proposed monitoring framework or which prisons could be accessed, which prevented the project from beginning work.

d. Arbitrary Arrest or Detention.—The law provides protection against arbitrary arrest and detention and accords detainees the right to a judicial determination of the legality of their detention; however, security forces frequently ignored such provisions, and arbitrary arrest and detention remained a problem.

Role of the Police and Security Apparatus.—The Ministry of the Interior and Public Security, through the director general of police, has oversight over the activities of the national police, including the OCRB. The Ministry of Defense oversees military forces, including the presidential guard, the national gendarmerie, and the SRI. The police and the military share responsibility for internal security.

Police were ineffective; they severely lacked financial resources, and their salaries were often in arrears. Citizens' lack of faith in police led at times to mob violence against persons suspected of theft and other offenses. Police corruption, including the use of illegal roadblocks to commit extortion, remained a problem; however, removal of some illegal roadblocks enabled more freedom of movement and easier transportation by year's end.

Mechanisms existed for redress against abuses by members of the police and military. Citizens filed complaints with the public prosecutor. The most common complaints involved theft, rape, brutality, and embezzlement. However, impunity remained a severe problem. Although the prosecutor had the authority to order the arrest of police officers suspected of committing abuses and exercised that authority during the year, the prosecutor's staff was small and severely underfunded. There were no prosecutions of police officers during the year, according to the deputy prosecutor.

The PMT convicted members of the military during the year (see section 1.a.).

In June the country's delegation at the UNHRC told the UPRWG that the country faced challenges executing military justice, particularly because prison guards who belonged to the military allowed or facilitated escapes for detained military personnel (see section 1.c.).

In June several members of the UNHRC's UPRWG made recommendations concerning the fight against impunity among security forces and the need for security sector reform. Recommendations focused on the need for the government to systematically investigate those accused of human rights abuses and suspend from duty, prosecute, and punish those responsible, without exception; undertake "severe vetting action linked to recruiting and promotion"; establish a permanent coordination structure for different security forces to consistently address issues such as training; and enhance training for the security forces in human rights and humanitarian law. By year's end, however, the government had taken few steps to effectively curb abuses by the military, particularly among the presidential guard.

During the year, in cooperation with the government, the Human Rights Section of the UN Peace Building Office in the Central African Republic (BONUCA) continued to collect complaints of human rights abuses committed by members of the security forces, including FACA soldiers. It continued to investigate abuses and share information with the public prosecutor to facilitate the fight against impunity. In addition, BONUCA provided more than 500 members of the security forces, including police officers, gendarmes, and FACA soldiers, with international humanitarian law and human rights training; it also provided training for the mission for the coordination of peace (MICOPAX) military personnel.

BONUCA maintained UN human rights observers in three regional UN offices in the northwestern and central parts of the country and planned to expand to two other cities over the next year. While BONUCA reported on human rights and

worked with the local human rights community, local and international observers have criticized its human rights section in recent years for its inability or refusal to bring such abuses to light or demand redress. Due in part to previous criticism of its lack of public reporting, BONUCA continued finalizing human rights reports for 2008 and 2009, but it had not released them by the end of the year.

As part of its efforts to protect citizens and safeguard property, the government continued to support joint security operations in the capital and selected cities in the northwestern section of the country conducted by several hundred regional armed forces peacekeepers. The government also supported joint operations by the UN Mission in the CAR and Chad in the northeastern Vakaga prefecture.

Arrest Procedures and Treatment While in Detention.—Judicial warrants are not required for arrest. The law stipulates that persons detained in cases other than those involving national security must be informed of the charges against them, and brought before a magistrate within 48 hours. This period is renewable once, for a total of 96 hours. In practice authorities often did not respect these deadlines, in part due to inefficient judicial procedures and a lack of judges. In several police detention centers, including the SRI, detainees were held for more than two days and often for weeks before bringing their cases before a magistrate. The law allows all detainees, including those held on national security grounds, to have access to their families and to legal counsel. Indigent detainees may request a lawyer provided by the government, although it was not known if this right was often invoked. Detainees are allowed to post bail or have family members post bail for them. In most cases lawyers and families had free access to detainees, but incommunicado detention occasionally occurred.

There were different standards for treatment of detainees held for crimes against the security of the state. National security detainees may be held without charge for up to eight days, and this period can be renewed once, for a total of 16 days. However, in practice such persons were held without charge for longer periods.

On September 30, the national assembly adopted a revised penal code and criminal procedure code. Due to these new reforms, detainees gained the right to have access to attorneys immediately after arrest.

According to BONUCA's human rights section, arbitrary arrest was a serious problem and was the most common human rights abuse committed by security forces during the year. In addition, in June a member of the UNHRC's UPRWG stated that "the judicial system is undermined by arbitrary arrests, detention, and delays in the administration of justice."

During the year the SRI released Bertin Aristide Kabamba, a former commandant in the Democratic Republic of the Congo's (DRC's) military who had received refugee status in the country in 2003, and who was arrested for "security reasons" in April 2008. Kabamba remained in Bangui and complained that he received periodic threats from members of the security forces.

In May authorities released from detention Christian Mocket, an official who had worked at the presidency prior to his arrest in September 2008, for having sent a letter to the president criticizing corruption surrounding the presidency. The government had not charged or tried Mocket.

During the year authorities continued to arrest individuals, particularly women, and charged them with witchcraft, an offense punishable by execution, although no one received the death penalty during the year. Prison officials at Bimbo Central Prison for women stated that accused witches were detained for their own safety, since village mobs sometimes killed suspected witches. In late 2005 Bangui prison officials estimated that 50 to 60 percent of female detainees were arrested for purported witchcraft. All the women incarcerated in the Bozoum and Alindao prisons were serving sentences for purported witchcraft.

Prolonged pretrial detention was a serious problem. At year's end pretrial detainees constituted approximately 75 percent of Ngaragba central prison's population and an estimated 60 percent of Bimbo Central Prison's population. Detainees usually were informed of the charges against them; however, many waited in prison for several months before seeing a judge. Judicial inefficiency and corruption, as well as a shortage of judges and severe financial constraints on the judicial system, contributed to pretrial delays. Some detainees remained in prison for years because of lost files and bureaucratic obstacles.

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary; however, the judiciary remained subject to the influence of the executive branch, and, despite government efforts to improve it, the judiciary was inadequate to meet its tasks.

The courts continued to suffer from inefficient administration, a shortage of trained personnel, growing salary arrears, and a lack of material resources. Less

than 1 percent of the annual national budget was devoted to the Ministry of Justice. According to a Ministry of Justice source, during the year there were 182 magistrates for the entire country; however, the UNDP estimated there were only 120 judges working in the country, equivalent to one judge for every 36,000 inhabitants. Many citizens effectively lacked access to the judicial system. Citizens often had to travel more than 30 miles to reach one of the country's 38 courthouses. Consequently, traditional justice at the family and village level retained a major role in settling conflicts and administering punishment.

Judicial corruption remained a serious impediment to citizens' right to receive a fair trial. According to the UNDP, during the year the average monthly salary of a judge working in one of the highest courts (the final court of appeals) was approximately 600,000 CFA francs (\$1,155); that of a junior judge was approximately 220,000 CFA francs (\$482).

According to the LCDH, corruption extended from the judges to the bailiffs. Many lawyers paid judges for verdicts favorable to their clients. There were, however, some efforts to combat judicial corruption, including by several UN agencies and the European Union.

The president appoints judges after the superior council of magistrates nominates them. The judiciary consists of 24 tribunals of first instance, three courts of appeal, a final court of appeals (cours de cassation), a high court of justice, commercial courts, a military court, and a constitutional court. There are also children's and labor tribunals, as well as a tribunal for financial crimes. The highest court is the constitutional court, which determines whether laws passed by the national assembly conform to the constitution and hears appeals challenging the constitutionality of a law. The PMT judges only members of the military and provides the same rights as civil criminal courts.

There were numerous reports that, in reaction to judicial inefficiency, citizens in a number of cities organized to deal with cases through parallel justice and persecution, such as mob violence, or resorted to neighborhood tribunals and appeals to local chiefs. Citizens also sought such resort in cases of alleged witchcraft.

Trial Procedures.—According to the penal code, defendants are presumed innocent until proven guilty. Trials are public, and defendants have the right to be present and to consult a public defender. Juries are used for criminal trials. If an individual is accused of a serious crime and cannot afford a lawyer, the government has an obligation to provide one. In practice the government provided counsel for indigent defendants, although this process was often slow and delayed trial proceedings due to the state's limited resources. Defendants have the right to question witnesses, to present witnesses and evidence on their own behalf, and to have access to government-held evidence. Defendants have the right to appeal. The government generally complied with these legal requirements. The judiciary, however, did not enforce consistently the right to a fair trial, and there were many credible reports of corruption within the court system. One indigenous ethnic group in particular, the Ba'Aka (Pygmies), reportedly was subject to legal discrimination and unfair trials.

Purported witchcraft occasionally was tried in the regular courts and could be punishable by execution, although no death sentences were imposed during the year. Most individuals who were convicted of witchcraft received sentences of one to five years in prison; they could also be fined up to 817,800 CFA francs (\$1,794). Police and gendarmes conducted investigations into alleged witchcraft. During a typical witchcraft trial, practitioners of traditional medicine were called to give their opinion of a suspect's ties to sorcery, and neighbors were called as witnesses. The law does not define the elements of witchcraft, and the determination lies solely with the magistrate.

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

Authorities granted BONUCA's human rights unit and human rights and humanitarian NGOs limited access to all prisoners and detainees, although bureaucratic requirements for visits and delays significantly restricted their frequency during the year.

Civil Judicial Procedures and Remedies.—The constitution provides for an independent judiciary in civil matters, and citizens had access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation; however, there was a widespread perception that judges were bribed easily and that litigants could not rely on courts to render impartial judgments. Many courts were understaffed, and personnel were paid poorly.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law prohibits searches of homes without a warrant in civil and criminal cases; however, police sometimes used provisions of the penal code governing certain political and

security cases to search private property without a warrant. Security forces continued to carry out warrantless searches for guns and ammunition in private homes.

On June 10, four armed persons attacked the house of the Minister of Regional Development Marie Reine Hassen. The assailants fired 22 shots at the residence entrance. The next day the OCRB arrested Eldon Piri, who later denounced six others, including three he identified as attackers, Odilon Serefio, Tresor Gbemani, and Ligboko-Pela. All were active duty military members. By year's end none had been tried, although the deputy prosecutor said the investigation was complete and the case was pending.

Local journalists claimed that the government tapped their telephones and harassed them regularly by telephone.

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—Internal conflict continued in seven northern prefectures and the extreme southeast. Despite the signing of the comprehensive peace accord in June 2008 between the government and four armed groups—the APRD, the Democratic Front of the Central African People (FDPC), the Movement of Justice for Central African liberators (MLCJ), and the Union of Democratic Forces for Unity (UFDR)—and an inclusive political dialogue in December 2008 between the government, armed groups, the political opposition, and civil society, which resulted in the formation of a government of national unity on January 19, violence increased during the year. Government and opposition forces engaged in numerous serious human rights abuses in the course of their struggle for control of the north, where soldiers, armed groups, and bands of unidentified armed men attacked civilians. Many observers estimated that the government controlled little more than half of the country during the year. Although government forces and armed groups maintained a ceasefire for much of the year, one notable armed group, the CPJP, remained outside of the peace process at year's end and continued to fight the government's armed forces north of Ndele, causing many civilians to flee. Civilians were caught in the crossfire during fighting between the armed groups and the military, which often accused them of supporting the armed groups.

In addition, attacks on civilians by the Lord's Resistance Army (LRA) in the southeast and interethnic violence between the Kara and the Goula ethnic groups in the northeastern Vakaga region contributed to the humanitarian crisis.

UN efforts at disarmament, demobilization, and reintegration remained stalled. The UN-led process continued to outline the restructuring and redeployment of military forces. The disarmament, demobilization, and reintegration of armed groups began in August. In August 2008 the government started a project for the reduction and control of small and light arms.

The Ugandan Peoples Defense Force (UPDF) operated in the eastern sector of the country with the cooperation of the FACA in operations against LRA guerillas.

Armed groups, including unidentified ones, took advantage of weakened security and continued to attack, kill, rob, beat, and rape civilians and loot and burn villages in the north. Kidnappings by such groups continued at an alarming rate during the year, contributing significantly to the massive population displacement.

Killings.—Extrajudicial killings continued. During military operations conducted against armed groups and highway bandits, government forces did not distinguish between the armed groups and civilians in the villages. Government forces often burned houses and sometimes killed villagers accused of being accomplices of armed groups or highway bandits.

UN observers noted numerous extrajudicial killings by security forces and the use of disproportionate force against suspect bandits and armed groups.

For example, on February 3 the FACA attacked the village of Sokoumba in response to attacks in the area by the CPJP. Attacking during a funeral, FACA soldiers killed at least 18 male civilians, including the village chief. According to press reports, some civilians were tied against a tree and shot in the head or stabbed to death, and at least one was decapitated. By year's end authorities had taken no action against those responsible.

In March outside of the northwestern town of Bozoum, government forces summarily executed four men suspected of banditry. They abandoned one of the bodies on the road and showed the others to two government officials from the Ministry of Defense visiting Bozoum. By year's end authorities had taken no action against those responsible.

On June 4, fighting between the FACA and the FDPC left two civilians dead on the Kabo-Moyenne Sido road in the Ouham prefecture. By year's end authorities had taken no action against those responsible.

At year's end no one had been charged in the summary executions committed by FACA soldiers on patrol in Bouar in March 2008.

By year's end authorities had not investigated or tried members of the FACA or presidential guard for killing large numbers of civilians in the northwest in 2006. In June a member of the UNHRC's UPRWG underlined the need for the government to follow up on the recommendations made in 2008 by the UN Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions (UNSRESAE) Philip Alston, including that the government investigate and prosecute those FACA soldiers responsible for the killings.

APRD armed combatants continued to carry out atrocities in areas under their control, including killings, pillaging, and extortion. For example, on April 14, an APRD officer in the northwestern town of Paoua publicly killed the local national herders organization's representative. The officer disappeared from Paoua, and by year's end authorities had not arrested him.

According to the national assembly member from Bocaranga II, on March 12, the APRD killed the chief of Tchoulao village in the Ouham Pende. By year's end authorities had not taken any action against those responsible.

Ethnic violence in the northeast resulted in several killings during the year. For example, in June fighting between the Kara and Goula ethnic groups in Birao, near the borders with Chad and Sudan, resulted in six deaths and the burning of nearly half of the town.

Starting in July, the LRA began attacks against towns located in the far eastern Haut Mbomou prefecture. For example, on August 21, LRA armed members attacked a truck operated by the international NGO Cooperazione Internazionale (COOPI) near Mboki, killing two staff members and wounding two others. By the end of the year, the UN Office for the Coordination of Humanitarian Affairs (OCHA) estimated that the LRA had killed approximately 50 civilians in the country. The attacks, some of which occurred in the DRC, resulted in 800 civilians from the DRC taking refuge in CAR and caused the internal displacement of 4,000 persons within CAR.

No further information was available on the June 2007 death of French humanitarian volunteer Elsa Serfass, who was participating in a mission with Doctors without Borders.

Abductions.—General Baba Ladde, the leader of the Popular Front for Redressing of Grievances, reportedly took civilians hostage during the year near Kaga Bandoro to extort money from their families.

According to OCHA, the LRA abducted approximately 150 civilians in the southeast during the year.

There was little or no response by local authorities to multiple kidnappings of civilians by armed groups considered to be bandits or zaraguinas (see section 1.a.).

On November 21, unidentified armed individuals kidnapped two international NGO workers in the northeastern town of Birao, Vakaga prefecture. No additional information was available at year's end.

Physical Abuse, Punishment, and Torture.—Government forces and armed groups mistreated civilians, including through torture, beatings, and rape, in the course of the conflicts. During military operations conducted against armed groups or highway bandits, the armed forces often burnt homes and did not distinguish between armed groups and local civilian populations they regarded as accomplices, although less often than in the previous year.

Civilians continued to suffer mistreatment in armed territories controlled by armed groups. On March 5, APRD members held and tortured a village chief in Bocaranga for refusing to pay a fee at an illegal roadblock. A few days later, the chief escaped the local APRD detention center. An evangelical pastor who tried to help the chief was subsequently arrested and tortured for three days by APRD members, resulting in his paralysis. No action was taken against those responsible by year's end.

International and domestic observers reported that, during the year, security forces, members of armed groups, Chadian soldiers, and bandits continued to attack cattle herders, primarily members of the M'bororo ethnic group. Many observers believed M'bororo were targeted primarily because of their perceived relative wealth and the relative vulnerability of cattle to theft. One UN agency reported that, according to its NGO partners in the affected region, the attackers often were themselves M'bororo.

M'bororo cattle herders were also disproportionately subjected to kidnapping for ransom. A UN agency working in the area indicated that the perpetrators often kidnapped women and children and held them for ransoms of between one million and two million CFA francs (\$2,193 and \$4,384). Victims whose families did not pay were sometimes killed. Armed groups in the country continued to conduct frequent

attacks on the M'bororo population on the Cameroonian side of the border, despite the Cameroonian government's deployment of security forces.

Some observers noted the use of rape by both government forces and armed groups to terrorize the population in the northern prefectures. Given the social stigma attached to rape, any report would likely underestimate the incidence of rape in the conflict zones. Several NGOs and UN agencies conducted gender-based violence awareness and treatment campaigns during the year in northern prefectures and Bangui.

Child Soldiers.—According to multiple human rights observers, numerous APRD groups included soldiers as young as 12. In addition, the UFDR admitted that many children served as soldiers in its ranks. According to an international observer, the UFDR and APRD stopped recruiting child soldiers during the year as a result of disarmament, demobilization and reinsertion activities, but in some remote areas, children were still used as lookouts and porters. The UN Children's Fund (UNICEF) and other observers noted that, while the child soldiers were willing to demobilize and were anxious to attend school, their communities lacked the most basic infrastructure.

UNICEF reported that between January and December, 623 APRD child soldiers were released, 572 of whom were boys. Approximately 30 percent were between 10 and 14 years old, and of those, 70 percent had served in combat. Although it had demobilized 450 child soldiers in 2008, the UFDR did not demobilize any child soldiers during the year.

Several NGO observers have reported that self-defense committees, which were established by towns to combat armed groups and bandits in areas where the FACA or gendarmes were not present, used children as combatants, lookouts, and porters. While the head of the self-defense committee of Bozoum denied the presence of children among his committee's ranks, he stated that there might be some children involved in the Bocaranga area and thus outside of his purview. UNICEF estimates that children comprised one third of the self-defense committees.

UPDF and FACA operations captured or received the surrender of 32 child soldiers during operations against the LRA during the year. A further six children, abducted by the LRA in the CAR in early 2008, returned to Bangui from the DRC with the help of UNICEF in mid 2009.

Displaced children have been forced to work as porters, carrying stolen goods for groups of bandits.

Other Conflict-Related Abuses.—In the northwest, members of the government security forces, including the FACA and presidential guard, continued to project a presence from the larger towns and occasionally engaged in combat with armed groups and bandits. While the ceasefire between government forces and armed groups allowed some displaced persons to return home, approximately 300,000 persons remained displaced in the bush or in refugee camps along the Chadian or Cameroonian borders.

In January government forces burned houses and other buildings along the Ndele-Garaba road. The area was considered sympathetic to the CPJP insurrection.

Internal movement was severely impeded, particularly in the north and north-western areas that the government did not control, by bandits and armed groups, including former combatants who helped President Bozize come to power in 2003.

Sporadic fighting between government security forces and armed groups, attacks on civilians by armed groups, armed banditry, and occasional abuse by government soldiers kept many internally displaced persons (IDPs) from their homes. OCHA estimated the number of IDPs increased during the year from 101,000 in December 2008 to 162,000 at year's end.

The overwhelming majority of IDPs were in the northwestern prefectures of Ouham and Ouham Pende, where some civilians remained displaced from their villages out of fear and lived in the bush for much of the year, returning occasionally to their fields to plant or scavenge. NGOs and UN agencies observed anecdotal evidence that some civilians were returning in the northwest prefectures, but this was not a widespread phenomenon. Thousands of individuals remained homeless due to fighting in the north-central prefectures of Haute Kotto and Bamingui-Bangoran, and due to instability in the northeastern prefecture of Vakaga, where there was renewed fighting within the UFDR, as well as an ethnic conflict between the Goula, Kara, and Rouna communities.

Hygiene-related illnesses and chronic malnutrition continued. Attacks or fear of attacks prevented many subsistence farmers from planting crops, and attackers either stole most of the livestock or the farmers fled with their livestock to safety in Cameroon. Chronic insecurity also rendered the north occasionally inaccessible to commercial, humanitarian, and developmental organizations, contributing to the

lack of medical care, food security, and school facilities, although less so than in the previous year. Humanitarian organizations continued to supply some emergency relief and assistance to displaced populations, although long-term development projects remained suspended due to the frequently changing security situations and sporadic fighting.

In March and again in late November, the government accused humanitarian workers of providing indirect support to armed groups and subsequently temporarily denied access to areas in the north controlled by armed groups, specifically to areas north of Kabo, Ouham prefecture, and north of Ndele, Bamingui-Bangoran prefecture. Although official restrictions were resolved by negotiation, access remained difficult due to frequent clashes and the military presence.

The government did not attack or target IDPs, although some IDPs were caught in the fighting between government forces and armed groups. The government provided little humanitarian assistance, but it allowed UN agencies and NGOs access to these groups to provide relief.

MICOPAX peacekeepers and government forces conducted joint security operations in an effort to secure the northern region and control the proliferation of small arms. Despite these operations, the government was not able to provide sufficient security or protection for IDPs in the north.

Refugees continued to flee the country during the year (see section 2.d.).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution and law provide for freedom of speech and of the press; however, in practice authorities continued to employ threats and intimidation to limit media criticism of the government. Unlike in the previous year, authorities did not arrest any journalists during the year. A media sustainability index (MSI) published during the year by IREX, an international NGO that promotes media independence, assessed the country's progress in meeting objectives for the establishment of a sustainable and professional independent media system. MSI concluded that "the country minimally met objectives, with segments of the legal system and government opposed to a free media system." Panelists involved in the MSI, including resident journalists from both government-run and independent media organs, "agreed that the state's fight against criticism has led to inhospitable and even dangerous conditions for journalists."

The independence of privately owned print and broadcast media was limited by low profitability. Private media outlets continued to be badly managed and unprofitable, according to journalists and other panelists consulted by the MSI. Partly due to a weak advertising market, revenues for domestic private media outlets remained low, and extremely low salaries for journalists left many vulnerable to bribes in exchange for favorable coverage.

Throughout the year, a number of newspapers criticized the president, the government's economic policies, and official corruption. There were more than 30 newspapers, many privately owned, which circulated daily or at less frequent intervals. Independent dailies were available in Bangui, but they were not distributed outside of the capital area. The absence of a functioning postal service continued to hinder newspaper distribution. Financial problems prevented many private newspapers from publishing regularly, and the average price of a newspaper, approximately 300 CFA francs (\$0.66), was higher than most citizens could afford.

Radio was the most important medium of mass communication, in part because the literacy rate was low. There were a number of alternatives to the state-owned radio station, Radio Centrafrique. For example, the privately owned Radio Ndeke Luka continued to provide independent broadcasts, including national and international news and political commentary. Its signal did not reach significantly beyond Bangui, although it was regularly rebroadcast by community radio for an hour or two each day. According to IREX, with the exception of Radio Ndeke Luka, which organized debates on current events, government-run and privately owned broadcast outlets based in the country tended to avoid covering topics that could draw negative attention from the government. International broadcasters, including Radio France Internationale, continued to operate during the year.

The government continued to monopolize domestic television broadcasting, and television news coverage generally supported government positions.

The high council for communications (HCC), which is charged with granting publication and broadcast licenses and protecting and promoting press freedom, is nominally independent. However, some of its members were appointed by government institutions, and according to several independent journalists, as well as the international press freedom watchdog committee to protect journalists, the body was controlled by the government.

The media continued to face many difficulties, including chronic financial problems, a serious deficiency of professional skills, the absence of an independent printing press, and a severe lack of access to government information. Journalists in the privately owned media were not allowed to cover certain official events, and in the absence of information, the majority of all news reporting by major domestic media organs continued to rely heavily on official or protocol-related information, such as government press releases.

During the year security forces often harassed and threatened journalists; there were also reports of government ministers and other senior officials threatening journalists who were critical of the government.

In a ruling issued January 9, the HCC suspended the privately owned daily newspaper *Le Citoyen* for one month for violating journalism ethics in an article published in January that criticized deputies in the national assembly and some opposition leaders for their inaction and referred to them as “dwarfs” and “mangy dogs.” Privately owned newspapers protested the decision by going on a temporary strike.

On April 17 the HCC suspended *L'Hirondelle* for two weeks after it published an article by a former military officer calling for rebellion against the government. The HCC's suspension was for inciting violence against the state. *L'Hirondelle* also published the response to the manifesto by the Ministry of Defense in an adjoining column. Privately owned newspapers went on a two-week strike to protest the decision.

In July the army stopped a journalist from *Le Citoyen* north of Kaga Bondoro. A military checkpoint prevented him from further travel but did not explain why they impeded him.

There were no further developments in the case of Temps Nouveaux editor Michel Alkhady Ngady, who was arrested, fined, and imprisoned for two months in 2007 after he contested appointments to the HCC. Ngady remained free during the year and continued publication of his newspaper, but the charge of “disobedience to public authorities” remained pending before an appeals court.

In March, the Ministry of Communication suspended a radio program named “What You Want to Know” on the government-run Radio Centrafrique for severe criticism of opposition leaders and labor unions following complaints from opposition groups, private press, and the HCC. The suspension lasted a month, after which the station resumed its broadcasts.

There were no reports of authorities taking action against presidential guard member Olivier Koudemon, who beat Radio Ndeke Luka journalist Jean-Magloire Issa in February 2008.

In June a member of the UNHRC's UPRWG recommended that the government “adopt further measures to ensure, in practice, the protection of journalists against threats and attacks, including imprisonment.”

Journalists continued to practice self-censorship due to fear of government reprisals. In addition, according to comments included in the MSI by the vice president of the Union of Central African Journalists, “the executive branch makes discretionary use of information in the public [government-run] press. Information agents appointed by the executive branch enforce censorship both in the newsrooms and at the level of all public authorities.”

Imprisonment for defamation and censorship was abolished in 2005; however, journalists found guilty of libel or slander faced fines of 100,000 to eight million CFA francs (\$219 to \$17,520) and were on occasion arrested and detained. During the year IREX reported that media workers said the 2005 law decriminalizing media offenses has offered little protection for journalists accused of offenses such as libel, as authorities could still try journalists and sentence them to prison terms according to provisions in the criminal code.

The law provides for imprisonment and fines of as much as one million CFA francs (\$2,193) for journalists who use the media to incite disobedience among security forces or incite persons to violence, hatred, or discrimination. Similar fines and imprisonment of six months to two years may be imposed for the publication or broadcast of false or fabricated information that “would disturb the peace.”

The Ministry of Communications maintained a ban on the diffusion by media of songs, programs, or articles deemed to have a “misogynist character” or to disrespect women.

Bangui University, with support from the UN Educational, Scientific and Cultural Organization (UNESCO), continued to offer a journalism program, the country's only such program, through its department of journalism and communication, which was launched in March 2008 to train students and strengthen skills and ethics of senior journalists. During the year the department enrolled 30 undergraduate students and 10 professional journalists.

Internet Freedom.—There were no reports that the government restricted access to the Internet or monitored e-mail or Internet chat rooms. The relatively few indi-

viduals who had access could engage in the peaceful expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics for 2008, approximately 0.44 percent the country's inhabitants used the Internet.

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

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The constitution provides for the right of assembly; however, the government restricted this right on a few occasions. Organizers of demonstrations and public meetings were required to register with the minister of the interior 48 hours in advance; political meetings in schools or churches were prohibited. Any association intending to hold a political meeting was required to obtain the Ministry of Interior's approval. In some cases the ministry refused permission "for security reasons."

In March a large-scale demonstration involving at least 2,000 individuals began after Lieutenant Olivier Koudemon and two other members of the presidential guard killed a police commissioner in Bangui. The rapid intervention squad of the presidential guard responded to the scene and dispersed the crowd by firing weapons into the air. Stray bullets reportedly struck eight persons. Similar crowd dispersion tactics had been used for smaller demonstrations, such as those associated with strikes.

Freedom of Association.—The constitution provides for freedom of association, and the government generally respected this right. All associations, including political parties, must apply to the Ministry of Interior for registration, and the government usually granted registration expeditiously. The government normally allowed associations and political parties to hold congresses, elect officials, and publicly debate policy issues without interference, except when they advocated sectarianism or tribalism.

A law prohibiting nonpolitical organizations from uniting for political purposes remained in place.

c. Freedom of Religion.—The constitution provides for freedom of religion, although it prohibits what the government considers to be religious fundamentalism or intolerance, and the government generally respected this right during the year. The constitutional provision prohibiting religious fundamentalism was understood widely to be aimed at Muslims, who make up 15 to 22 percent of the population, but this provision was not implemented by enabling legislation.

Religious groups (except for indigenous religious groups) were required by law to register with the Ministry of Interior. The ministry's administrative police monitored groups that failed to register; however, police did not attempt to impose any penalties on such groups during the year. The ministry could decline to register, suspend the operations of, or ban any organization that it deemed offensive to public morals or likely to disturb the peace; however, there were no reports of the ministry doing so during the year.

The government maintained a ban, begun in 2007, on the church "Eglise Jehova Sabaoth," led by Reverend Ketafo. According to the Ministry of Interior, a government investigation found that the pastor was using false documents and diplomas. Despite the ban, the pastor continued to preach from his home during the year.

Societal Abuses and Discrimination.—Muslims continued to face consistent social discrimination, especially regarding access to services like citizenship documentation, where low-level functionaries reportedly created informal barriers for Muslims. Many citizens believed Muslims were "foreigners" and resented them due to their better-than-average living standard.

There was no significant Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation; however, the government restricted freedom of movement within the country and foreign travel during the year. Security forces, customs officers, and other officials harassed travelers unwilling or unable to pay bribes or "taxes" at checkpoints along intercity roads and at major intersections in Bangui, although these roadblocks had decreased significantly by year's end.

In April the Ministry of Foreign Affairs requested that all diplomatic missions inform the ministry before travel to any area deemed "under tension," although these

locations were unspecified. In practice the government hindered travel by diplomats outside of the capital on multiple occasions.

During the year police continued to stop and search vehicles, particularly in Bangui, in what amounted to petty harassment to extort payments. Local human rights organizations and UN officials said the problem of illegal road barriers and petty extortion by soldiers was widespread. Merchants and traders traveling the more than 350-mile main route from Bangui to Bangassou encountered an average of 25 military barriers. While the fees extorted varied for private passengers, commercial vehicles reported paying fees of up to 9,000 to 10,000 CFA francs (18.7 to \$20.8) to continue their journeys.

This extortion greatly discouraged trade and road travel and severely crippled the country's economy.

Freedom of movement, including of traders and delivery trucks, was also severely impeded in conflict zones.

With the exception of diplomats, the government required that all foreigners obtain an exit visa. Travelers intending to exit the country could be required to obtain affidavits to prove that they owed no money to the government or to parastatal companies.

The constitution does not permit the use of exile, and the government did not employ it in practice. Former president Patasse, convicted in absentia for embezzlement, remained outside the country during most of the year; however, he was allowed to return in October after six years in exile.

A significant number of members of the M'bororo ethnic group continued to live as refugees in Cameroon and southern Chad after violence in 2006 and 2007.

Internally Displaced Persons (IDPs).—Sporadic fighting between government forces and armed groups, attacks on civilians by armed groups, and armed banditry prevented the country's internally displaced persons (IDPs), most of whom were displaced in 2006, from returning to their homes. At year's end the number of IDPs totaled 162,000, including almost 100,000 in the northwestern prefectures of Ouham and Ouham Pende. The number of individuals who had fled the country totaled 138,000, including 74,000 refugees in Chad and approximately 64,000 refugees in Cameroon. By October violence in the north caused the internal displacement of more than 20,000 persons, and caused up to 18,000 to seek refuge in Chad. In January a significant number of members of the Rounka ethnic group fled villages along the Ndele-Garba road as a result of fighting between the FACA and the CPJP. In June ethnic conflict in the northeastern Vakaga prefecture displaced approximately 2,000 Kara. In the southeastern prefecture of Haut-Mbomou, attacks by the LRA caused the internal displacement of approximately 10,800 individuals by December.

In March the government accused humanitarian workers of providing indirect support to armed groups and subsequently temporarily denied access to areas in the north controlled by armed groups, specifically to areas north of Kabo, Ouham prefecture, and north of Ndele, Bamingui-Bangoran prefecture. Although official restrictions were resolved by negotiation, access remained difficult due to frequent clashes and the military presence.

In June the Office of the High Commissioner for Refugees helped created the national committee for dialogue and coordination for the protection of the rights of IDPs in the country. The objectives of the committee were to ensure the coordination and monitoring of activities related to the protection of IDPs, to formulate a new IDP protection law, and to establish a framework for increased assistance for IDPs. The committee participated in all meetings of the country's protection cluster, the main forum for the coordination of civilian protection activities in the context of humanitarian efforts, and it was focused on human right abuses, but, according to OCHA, the committee had not yet carried out any of its assigned responsibilities by year's end.

The government did not provide protection or assistance to IDPs, citing a lack of means.

There were no reports of the government attacking or specifically targeting IDPs. The government occasionally blocked humanitarian access in areas frequented by armed groups. There were no reports of the government inhibiting the free movement of IDPs.

In June several members of the UNHRC's UPRWG recommended that the government immediately take measures to safeguard the rights of IDPs, including by enacting a law with provisions for the protection of displaced children; ensure the free circulation of humanitarian workers so they can access IDPs; and follow up on specific past recommendations of the UN secretary-general's representative on the human rights of IDPs. At year's end it was unclear if the government had taken steps to implement these recommendations.

Displaced children worked in fields for long hours and as porters for bandits or armed groups (see sections 1.g. and 7.d.).

Protection of Refugees.—The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 protocol. The country also is a party to the 1969 AU Convention Governing the Specific Aspects of the Refugee Problem in Africa. The country's laws provide for granting asylum and refugee status, and the government has established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened. The government accepted refugees without subjecting them to individual screening.

The government continued to cooperate with the UNHCR and other humanitarian organizations in assisting approximately 13,000 refugees in the country.

During the year security forces subjected refugees, as they did citizens, to arbitrary arrest and detention. Refugees were especially vulnerable to such human rights abuses. The government allowed refugees freedom of movement, but like citizens, they were subject to roadside stops and harassment by security forces and armed groups. Refugees' access to courts, public education, and basic public health care was limited by the same factors that limited citizens' access to these services.

Several international organizations worked with the government and UNHCR to assist refugees during the year. They included Doctors without Borders, Caritas, International Medical Corps, and COOPI.

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

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in presidential and legislative elections in 2005, which election observers considered to be generally free and fair, despite some irregularities.

Elections and Political Participation.—In 2005 the country held two rounds of multiparty presidential and legislative elections that resulted in the election of General Francois Bozize as president; Bozize had seized power in a 2003 military coup, declared himself president, and headed a transitional government until the 2005 elections. Domestic and international election observers judged the elections to be generally free and fair, despite irregularities and accusations of fraud made by candidates running against Bozize.

In August President Bozize promulgated into law the text of an electoral code that the constitutional court had ruled in July as including provisions that were unconstitutional. After President Bozize signed a decree based on the disputed electoral code, establishing the independent electoral commission (CEI), the political opposition challenged the law. In October, after the constitutional court requested that President Bozize respect the decision it had delivered in July, President Bozize agreed to remove the disputed text from the electoral code and promulgate a new code. He subsequently signed two decrees that established the CEI, and 30 members of the CEI were drawn from the six groups that participated in the inclusive political dialogue of 2008. The members of the CEI were sworn in on October 16.

Despite a constitutional requirement that he do so by 2007, as well as a recommendation stemming from the 2008 inclusive political dialogue, for the third consecutive year the president did not call for municipal elections, citing lack of government resources.

In December 2008 the government hosted a political dialogue with the opposition parties, armed groups, civil society groups, and outside mediators with the goal of ending armed insurrection in the northeast and northwest and bringing all political parties and armed groups to the negotiating table. Most of the major political and armed group leaders attended the dialogue and recommended a new consensus government. While President Bozize pledged to implement the recommendations, he formed a new government composed primarily of members of his presidential majority. The president reappointed Faustin Touadera as prime minister at the head of a 32-member cabinet. Representatives from the APRD and UFDR movements filled two ministerial positions. The main opposition coalition, including the Movement for the Liberation of Central African People (MLPC) and Democratic Union of Central Africa political parties, were not part of the new government.

On multiple occasions during the year, police, gendarmes, and the FACA impeded the travel of members of the opposition MLPC party, delaying their travel for up to two days.

In his December report to the UN Security Council, the UN secretary general said he "remained concerned over reports of intimidation and restriction of the movements of some members of the political opposition by the security forces and by the

call by some politicians for a constitutional amendment or political arrangement that would allow the elections to be postponed.”

During the year the LCDH continued to criticize President Bozize for holding the position of minister of defense, on the grounds that the constitution prohibits the president from holding “any other political function or electoral mandate”; however, government officials said this criticism was based on a misinterpretation of the constitution. After political activist Zarambaud Assingambi filed a complaint with the constitutional court in 2008, the court ruled in June 2008 that it was not competent to try the case.

According to recommendations from a 2003 government-sponsored national dialogue, women are to occupy 35 percent of posts in government ministries and political parties; however, this provision was not respected during the year. There were 10 women in the 105-seat national assembly and three in the president’s 32-person cabinet. There were no laws prohibiting women from participating in political life, but most women lacked the financial means to compete in political races.

There were 17 Muslims, including two members of the M’bororo ethnic group, in the national assembly.

The Ba’Aka (Pygmies), the indigenous inhabitants of the south, comprised between 1 and 2 percent of the population; they were not represented in the government and continued to have no political power or influence.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement these laws effectively, and officials often engaged in corrupt practices with impunity. Misappropriation of public funds and corruption in the government remained widespread. The World Bank’s worldwide governance indicators reflected that government corruption was a severe problem.

The government continued its campaign against embezzlement, money laundering, and other forms of financial fraud. Since May salary payments to government employees have been made through bank accounts instead of in cash. Additionally, during the year, the Ministry of Finance established a customer service office for employees to report any cases of harassment or fraud experienced in the processing of their documents or pay. Efforts were also made during the year to computerize financial information to increase transparency. However, the effect of these actions was not particularly evident to the public, and skepticism remained over whether these actions would serve to deter corruption. Extortion at road checkpoints and corruption among customs service officials remained major sources of complaints by importers and exporters.

The president continued to chair weekly committee meetings to combat fraud in the treasury. In March 2008 Prime Minister Touadera set up a national committee to fight corruption that included representatives from the government, trade unions, NGOs, private sector, religious organizations, and the media. The committee’s investigations resulted in the arrest of 19 senior civil servants in the tax division of the ministry of finance on charges of embezzling up to 5 million CFA francs (\$10,967) each. Six of those arrested were tried in 2008 and received jail sentences. At year’s end the rest of those accused continued to await trial.

According to the constitution, senior members of the executive, legislative, and judicial branches are required to declare publicly their personal assets at the beginning of their terms. The members of the new government declared their assets upon entry into the government. The law does not require ministers to declare their assets upon departing government.

The law provides for access by journalists to “all sources of information, within the limits of the law”; however, it does not specifically mention government documents or government information, and no mention is made of access by the general public. The government often was unable or unwilling to provide information, and lack of access to information continued to be a problem for journalists and the general public. Furthermore, years of instability and conflict made information difficult for the government to collect, particularly in the countryside. Information on the humanitarian situation, for example, was difficult to obtain and sometimes contradictory.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Domestic and international human rights groups generally operated with few government restrictions. A few NGOs investigated abuses and published their findings. However, due to ongoing financial needs, insecurity, and economic dislocation, domestic human rights NGOs, whose area of work was almost exclusively limited to Bangui, continued to lack the means to disseminate human rights information out-

side the capital or support their rural branches. These limitations contributed to widespread ignorance about human rights and the means of redress for abuses. Government officials in Bangui met with local NGOs during the year, but at least two local NGOs reported that the government was not responsive. Government officials continued to criticize local NGOs publicly for their reports of human rights violations that security forces committed. In June a member of the UNHRC's UPRWG recommended that "authorities give human rights defenders legitimacy and recognition through supportive statements, and that defenders be protected."

There were domestic human rights NGOs that demonstrated significant independence; however, several domestic civil society groups were led by individuals belonging to or closely associated with the ruling political party, which may have limited their independence. Citing the appearance of a conflict of interest, some international and domestic NGOs have expressed concern over the neutrality and independence of the country's only legally recognized NGO platform or umbrella group, the Inter-NGO Council in CAR (CIONGCA), which was led by the brother of a minister of state. In recent years, CIONGCA often represented domestic civil society groups in decision-making forums, including the follow-up committee of the inclusive political dialogue.

A few NGOs were active and had a sizable impact on the promotion of human rights. Some local NGOs, including the LCDH, the OCDH, the antitorture NGO ACAT, and the Association of Women Jurists (AWJ), actively monitored human rights problems; worked with journalists to draw attention to human rights violations, including those committed by the army; pleaded individual cases of human rights abuses before the courts; and engaged in efforts to raise the public's awareness of citizens' legal rights.

Domestic human rights NGOs reported that some officials continued to view them as spokespersons for opposition political parties. They also reported several cases of harassment by officials during their fact-finding visits around the country. One domestic human rights NGO reported during the year that its members located outside the capital remained afraid to investigate alleged abuses because security force members have threatened NGO activists suspected of passing information about abuses by security forces to international NGOs for publication. During the year, another domestic NGO, along with the International Federation of Action by Christians for the Abolition of Torture, reported to the UNHRC's UPRWG that "human rights activists are constantly intimidated in their activities" and recommended that authorities respect the UN's Declaration on Human Rights Defenders.

Bernadette Sayo, the founder of the Organization for Compassion and Development for Women in Distress (OCODEFAD), formed by victims of the widespread rapes that took place in 2002-03, accepted a ministerial position in 2008 after having reported that security forces had harassed her and her family due to her activist views. The coordinator who replaced Sayo at the head of OCODEFAD also reported several incidents of harassment by authorities.

International human rights NGOs and international organizations operated in the country without interference from the government. Armed groups sporadically targeted the small number of humanitarian workers operating in the northwest, northeast, and southeast, stopping their vehicles and robbing them. The entire north was occasionally inaccessible to NGOs due to increased violence.

Due in part to the government's inability to effectively address persistent insecurity in parts of the country, some international human rights and humanitarian groups working in conflict zones have either closed suboffices or left the country altogether. For example, an attack on COOPI by the LRA in late September, which resulted in the deaths of humanitarian workers, forced COOPI to suspend operations in the southeast.

Some international NGOs continued to raise human right awareness among authorities and security forces. For example, throughout the year, the International Rescue Committee organized a training session for security force instructors focusing on fundamental human rights principles, international humanitarian law, the rights of children, and women's rights, among other issues.

The government took very few substantive actions during the year to implement or follow up on recommendations announced in February 2008 by UNSRESAE Alston. Alston recommended, among other things, that the government publicly acknowledge the state's responsibility for abuses committed by security forces, particularly those committed between 2005 and 2007; suspend from duty, investigate, and prosecute members of security forces, particularly Lieutenant Eugene Ngaikosse, implicated in human rights abuses; establish an independent national human rights commission; and abolish the criminalization of witchcraft and ensure that those accused of witchcraft are not killed.

During the year the government continued to cooperate with international governmental organizations in the promotion and protection of human rights. The national prosecutor's office continued to work with BONUCA to investigate human rights abuses by the security forces, and the government continued to cooperate with BONUCA and UN agencies in their efforts to train security forces in human rights (see section 1.d.). The government also continued to allow BONUCA to conduct visits to prisons and detention centers and to conduct human rights training for government security agents. International observers witnessed small improvements after prison visits, but did not observe a significant change in policy toward prisons and prisoners rights during the year.

In June members of the UNHRC's UPRWG noted that the government had not submitted overdue reports to the council regarding various human rights abuses and follow-up actions related to recommendations by UN special rapporteurs who had visited the country in recent years. Several members recommended that the government issue a standing invitation to all of the UNHRC's special procedures (special rapporteurs on thematic human rights issues). Several working group members also recommended that the government increase efforts to reactivate the national human rights commission, which was no longer operational, and to ensure that it would enjoy adequate independence and material and personnel resources.

In December in a report to the UN Security Council on the political, security, and human rights situation in the country and the activities of BONUCA, the UN secretary general found the human rights situation remained worrisome. He underlined the importance of ensuring peaceful and credible elections in 2010, ending harassment of opposition parties, addressing impunity, and avoiding delays in the disarmament and demobilization process.

The office of the high commissioner for human rights and good governance, attached to the presidency, investigated citizen complaints of human rights violations committed by members of the government, and occasionally forwarded cases to the Ministry of Justice for possible prosecution. The high commissioner's office presented its national report on human rights to the UNHRC's UPRWG in May. While the commission was operational, it remained ineffective. The high commissioner's office claimed that it did not have adequate staffing or financial resources and lacked the means to train its investigators properly. Some human rights observers noted that it acted more as a spokesperson for the government than an office promoting human rights.

A human rights commission in the national assembly sought to strengthen the capacity of the legislature and other government institutions to advance human rights, but it had few resources. Credible human rights NGOs questioned the autonomy and desire of this commission to affect real measures, as the national assembly was not generally considered sufficiently independent from the executive branch.

The government continued to cooperate with the ICC, which continued its investigation into crimes committed in the country in 2002-03 by the previous government and by soldiers under the command of Jean Pierre Bemba, then a Congolese rebel leader. In May 2008, Bemba was arrested in Brussels.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution stipulates that all persons are equal before the law without regard to wealth, race, disability, or gender. However, the government did not enforce these provisions effectively, and significant discrimination existed.

Women.—The law prohibits rape, although it does not specifically prohibit spousal rape. Rape is punishable by imprisonment with hard labor, but the law does not specify a minimum sentence. The government did not enforce the law effectively. Police sometimes arrested men on charges of rape, although statistics on the number of individuals prosecuted and convicted for rape during the year were not available. The fear of social stigma inhibited many families from bringing suits. Released in June, the report of the UNHRC's UPRWG commended the government's 2007-11 national action plan to combat gender-based violence; however, the report featured several recommendations from working group members urging the government to adopt measures to enhance the fight against sexual violence.

Few assessments have been conducted on the prevalence of rape. However, according to a baseline study conducted in June and July by Mercy Corps in four non-conflict areas (Bangui, Bouar, Bambari, and Bangassou), sexual violence against women was pervasive. One in seven women reported having been raped in the past year, and the study concluded that the true prevalence of rape may be even higher. In addition, from February through November, an international NGO reported 255 cases of gender-based violence in the Nana Gribizi and Ouham Pende prefectures. The reports included male and female rape, as well as gang rape.

Although the law does not specifically mention spousal abuse, it prohibits violence against any person and provides for penalties of up to 10 years in prison. Domestic violence against women, including wife beating, was common; 25 percent of women surveyed in the Mercy Corps study had experienced violence committed by their partner in the past year. Of them, 33 percent of men and 71 percent of women said it was acceptable to use violence against women when women had not properly performed their domestic tasks. Spousal abuse was considered a civil matter unless the injury was severe. According to the AWJ, a Bangui-based NGO specializing in the defense of women's and children's rights, victims of domestic abuse seldom reported incidents to authorities. When incidents were addressed, it was done within the family or local community. The deputy prosecutor said he did not remember trying any cases of spousal abuse during the year, although litigants cited spousal abuse during divorce trials and civil suits.

Some women reportedly tolerated abuse to retain financial security for themselves and their children.

The law does not prohibit prostitution; however, it prohibits coercing someone into prostitution or profiting from the prostitution of another. Prostitution was widespread and practiced mostly among young women and occasionally among men. The new penal code does not specifically prohibit prostitution, but it does criminalize procuring. Procurers can receive prison sentences ranging from one to five years and a fine ranging from 100,000 to 1,000,000 CFA francs (\$222 to \$2,222). The law imposes fines and imprisonment for three months to one year for sexual procurement (including assisting in prostitution). For cases involving a minor, the penalty is one to five years of imprisonment.

Some young women and girls reportedly engaged in prostitution for survival without third party involvement, although no data were available to indicate how common this practice was.

The law prohibits sexual harassment; however, the government did not effectively enforce the law, and sexual harassment was a common problem.

The government respected couples' rights to freely and responsibly decide the number of children they had, as well as when they had them. Most couples lacked access to contraception and skilled attendance during childbirth. According to UNICEF data collected between 2000 and 2007, only 19 percent of women between the ages of 15 and 49 who were married or in union were using contraception, and only 53 percent of births were attended by skilled health personnel. The maternal mortality rate remained extremely high—1,355 out of every 100,000 live births. There was little information available regarding whether women received the same level of care as men for sexually transmitted infections, including HIV. The government continued working with UN agencies to increase the use of contraception, including by women, and to assist in other prevention activities targeting sexually transmitted infections.

The law does not discriminate against women in inheritance and property rights, but a number of discriminatory customary laws often prevailed, and women's statutory inheritance rights often were not respected, particularly in rural areas. The family code further strengthened women's rights, particularly in the courts, but access to the judicial system remained very limited throughout the country.

Women were treated as inferior to men both economically and socially. Single, divorced, or widowed women, including those with children, were not considered heads of households. Only men were entitled to family subsidies from the government. There were no accurate statistics on the percentage of female wage earners. Women's access to educational opportunities and to jobs, particularly at higher levels in their professions or in government service, remained limited. Some women reported economic discrimination in access to credit due to lack of collateral. Divorce is legal and can be initiated by either partner.

Women, especially the very old and those without family, continued to be the target of witchcraft accusations.

Released in June, the report of the UNHRC's UPRWG highlighted the "persistent discrimination against women" in areas such as political rights and education. The report recommendations urged the government to conduct a "rapid review of the family code to abrogate all discriminatory provisions against women" and to adopt measures to improve women's political participation, educational opportunities, status in marriage, and reduce the maternal mortality rate."

The Mercy Corps study found that lack of respect for women's rights was widespread, and that women were widely perceived to be inferior to men, with implications for women's health and their ability to contribute to their family's livelihoods. One of every three women surveyed said they were excluded from financial decisions in their households.

The AWJ advised women of their legal rights and how best to defend them; it filed complaints with the government regarding human rights violations. During the year several women's groups organized workshops to promote women's and children's rights and encourage women to participate fully in the political process.

Children.—The government spent very little money on programs for children, and churches and NGOs had relatively few youth programs.

Citizenship was derived by birth in the national territory or from one or both parents. The registration of births was spotty, though, and Muslims reported consistent problems in establishing their citizenship. Unregistered children faced limitations in their access to education and other social services. According to UNICEF, total birth registration was 49 percent, with 61 percent of children registered in urban areas and 28 percent in rural areas. Registration of births in conflict zones was likely lower than in other areas.

Education is compulsory for six years until age 15; tuition is free, but students had to pay for their books, supplies, transportation, and insurance. Approximately 75 percent of children started school, but many did not complete the first six years of primary school education. Girls did not have equal access to primary education; 65 percent girls were enrolled in the first year of school, but only 23 percent of girls finished the six years of primary school, according to a 2007 UNESCO study. At the secondary level, a majority of girls dropped out at age 14 or 15 due to societal pressure to marry and bear children. The ministry of plans estimated during the year that there was one teacher for every 99 students nationally.

Few Ba'aka (Pygmies) attended primary school during the year. Some local and international NGOs, including COOPI, made efforts with little success to increase Ba'aka enrollment in schools; there was no significant government assistance to these efforts.

The law criminalizes parental abuse of children under the age of 15. Nevertheless, child abuse and neglect were widespread, although rarely acknowledged. A juvenile court tried cases involving children and provided counseling services to parents and juveniles during the year.

The law prohibits FGM, which is punishable by two to five years of imprisonment and a fine of 100,000 to 1,000,000 CFA francs (\$225 to \$2,250) depending on the severity of the case; nevertheless, girls were subjected to this traditional practice in certain rural areas and, to a lesser degree, in Bangui. According to the AWJ, anecdotal evidence suggested that the FGM rates declined in recent years as a result of efforts by UNICEF, AWJ and the ministries of social affairs and public health's efforts to familiarize women with the dangers of the practice.

According to UNICEF data collected between 2002 and 2007, the percentage of girls and women between the ages of 15 and 49 who had undergone FGM was approximately 27 percent.

The law establishes 18 as the minimum age for civil marriage; however, an estimated 61 percent of women between the ages of 20 and 24 were married before the age of 18, according to UNICEF data collected between 1998 and 2007. The Ministry of Social Affairs had limited means to address this problem. Early marriage was usually reported in less educated and rural environments where the government lacked authority. The phenomenon of early marriage was more common in the Muslim community.

The new penal code does not specifically prohibit prostitution, but it does criminalize pimping. Pimps can receive prison sentences ranging from one to five years and a fine ranging from 100,000 to 1,000,000 CFA francs (\$222 to \$2,222).

There were no statutory rape or child pornography laws protecting adolescent minors or children.

Child labor was widespread; forced child labor, including the use of children as soldiers, occurred (see sections 1.g., 7.c., and 7.d.).

There were more than 8,000 street children between the ages of five and 18, including 5,000 in Bangui, according to the Ministry of Family and Social Affairs. Many experts believed that HIV/AIDS and a belief in sorcery, particularly in rural areas, contributed to the large number of street children. An estimated 300,000 children had lost one or both parents to HIV/AIDS, and children accused of sorcery (often reportedly in connection to HIV/AIDS-related deaths in their neighborhoods) often were expelled from their households and were sometimes subjected to societal violence.

There were NGOs specifically promoting children's rights, including some, such as Voices of the Heart, which assisted street children.

The country's instability had a disproportionate effect on children, who accounted for almost 50 percent of IDPs during the year. Access to government services was limited for all children, but displacement reduced it further.

Trafficking in Persons.—The 2009 penal code specifically criminalizes trafficking in persons. Although NGOs and government officials said that trafficking in persons was not widespread, no comprehensive analysis of trafficking in persons has been conducted and little concrete data existed on the extent of the problem. The Ministry of Interior is responsible for trafficking crimes.

The country was a source, transit, and destination point for men, women, and children trafficked for the purpose of forced labor and sexual exploitation. The majority of victims were children trafficked within the country for sexual exploitation, domestic servitude, forced ambulant vending, and forced agricultural, mine, market, and restaurant labor. Victims were also trafficked to Cameroon, Nigeria, and the DRC. During the year, BONUCA reported cases of trafficking of human organs by unidentified persons, as well as the forced harvesting of blood for medical and religious activities, in the east.

UN reports during the year indicated that self-defense committees, some of which were supported by the government, recruited child soldiers. UNICEF estimated that children comprised one-third of these committees. There were reports that domestic armed groups abducted children and conscripted them as soldiers in the northwest and northeast. Some observers also reported cases of children forced into labor by the LRA near the southeastern town of Obo. Villagers subjected Ba'aka (Pygmies), who were unable to survive as hunters because of depleted forests, to forced agricultural labor.

In recent years there were reports that children were trafficked from Cameroon and Chad and, to a lesser extent, from Sudan by nomadic pastoralists. Members of the foreign Muslim communities from Nigeria, Sudan, and Chad subjected them to forced labor. There were also reports that merchants, herders, and other foreigners doing business in and transiting the country trafficked girls and boys from Chad and Sudan into the country. Child trafficking victims could not attend school, despite mandatory primary school attendance, and worked without remuneration.

Some girls entered prostitution to earn money for their families, both as commercial sex workers and as mistresses to wealthy clients.

Under the new penal code, the penalty for trafficking is between five and 10 years of imprisonment; however, when a minor is the victim of trafficking for the purpose of sexual exploitation or forced labor similar to slavery, the penalty is life imprisonment with hard labor.

Using laws prohibiting kidnapping, in February 2008, the government prosecuted three individuals for trafficking a three-year-old Guinean girl in 2007. After their arrest, the three suspects were detained at the Ngaragba prison, awaiting their trial. According to an official from the Ministry of Social Affairs, the three suspects escaped from the prison and remained at large. The girl was taken to the Centre de la Mere et de l'Enfant, an orphanage in Bangui, and was returned to Guinea during the year.

Neither the government nor NGOs operated shelters that provided care to trafficking victims, and there were no known NGOs specifically working to combat trafficking. In some cases, police have jailed children found in prostitution for up to a month and then released them rather than provide them with rehabilitation and reintegration care. The government did not monitor immigration or emigration patterns for evidence of trafficking, and it did not investigate trafficking cases or implement procedures to identify trafficking victims among vulnerable populations, such as abandoned children or prostitutes, or rescue and provide care to victims. However, since 2008 government officials have traveled with UNICEF to the interior of the country to identify, rescue, and demobilize child soldiers conscripted by armed groups and to assist in releasing children from self-defense committees.

The State Department's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The law prohibits discrimination against persons with both mental and physical disabilities. It also requires that for any company employing at least 25 persons, at least 5 percent of its staff must consist of sufficiently qualified persons with disabilities, if they are available.

In addition, the law states that each time the government recruits new personnel into the civil service, at least 10 percent of the total number of newly recruited personnel should be persons with disabilities. According to the Ministry of Social Affairs, the provision was not automatic and depended on the availability of applications from persons with disabilities at the time of the recruitment decision by the interested ministry.

There was no societal discrimination against persons with disabilities. However, there were no legislated or mandated accessibility provisions for persons with disabilities, and such access was not provided in practice. Approximately 10 percent of the country's population had disabilities, mostly due to polio, according to the

2003 census. The government had no national policy or strategy for providing assistance to persons with disabilities, but there were several one-off government and NGO initiated programs designed to assist persons with disabilities, including handicraft training for the blind and the distribution of wheelchairs and carts by the Ministry of Family and Social Affairs.

The Ministry of Family and Social Affairs continued to work with the NGO Handicap International during the year to provide treatment, surgeons, and prostheses to persons with disabilities.

National/Racial/Ethnic Minorities.—Violence by unidentified persons, bandits, and armed groups against the M'bororo continued to be a problem, as they continued to suffer disproportionately from the civil disorder in the north. Their cattle wealth makes them attractive targets to the various bandits and armed groups that controlled the north. Additionally, since many citizens viewed the M'bororo as inherently foreign due to their transnational migratory patterns, they faced occasional discrimination with regard to government services and protections.

Indigenous People.—Despite constitutional protections, there was societal discrimination against Ba'Aka (Pygmies), the earliest known inhabitants of the rain forest in the south. Ba'Aka constitute approximately 1 percent of the population. They continued to have little say in decisions affecting their lands, culture, traditions, and the exploitation of natural resources. Forest-dwelling Ba'Aka, in particular, were subject to social and economic discrimination and exploitation, which the government has done little to prevent. Despite repeated promises, the government took no steps to issue and deliver identity cards to Ba'Aka, lack of which, according to many human rights groups, effectively denied them access to greater civil rights.

The Ba'Aka, including children, were often coerced into agricultural, domestic, and other types of labor. They often were considered to be the slaves of other local ethnic groups, and even when they were remunerated for labor, their wages were far below those prescribed by the labor code and lower than wages paid to members of other groups.

During the year COOPI continued to promote the rights of the Ba'Aka by monitoring discrimination and seeking to increase their access to public services, including education, by helping them acquire birth certificates.

Refugees International reported in recent years that Ba'Aka were effectively "second-class citizens" and that the popular perception of them as barbaric, savage, and subhuman seemingly had legitimized their exclusion from mainstream society.

Societal Abuses, Discrimination and Acts of Violence Based on Sexual Orientation and Gender Identity.—The penal code criminalizes homosexual behavior. The penalty for "public expression of love" between persons of the same sex is imprisonment for six months to two years or a fine of between 150,000 and 600,000 CFA francs (between \$334 and \$1,334). When the relationships involve a child, the sentence is two to five years imprisonment, or a fine of 100,000 to 800,000 CFA francs (\$222 and \$1,775); however, there were no reports that police arrested or detained persons they believed to be involved in homosexual activity.

There was no official discrimination, but societal discrimination against homosexual conduct persisted during the year, and many citizens attributed the existence of homosexual conduct to undue Western influence.

Other Societal Violence or Discrimination.—Persons with HIV/AIDS were subject to discrimination and stigma, although less so as NGOs and UN agencies raised awareness about the disease and available treatments. Nonetheless, many individuals with HIV/AIDS did not disclose their status for fear of social stigma.

Section 7. Worker Rights

a. The Right of Association.—The law allows all workers, except for senior level state employees and security forces, including the military and gendarmes, to form or join unions without prior authorization; however, only a relatively small part of the workforce, primarily civil servants, exercised this right. The labor code provides for the right of workers to organize and administer trade unions without employer interference and grants trade unions full legal status, including the right to file lawsuits. The government generally respected these rights in practice.

The labor code requires that union officials be full-time, wage-earning employees in their occupation and allows them to conduct union business during working hours as long as the employer is informed 48 hours in advance and provides authorization. A person who loses the status of worker, either through unemployment or retirement, can still belong to a trade union and participate in its administration.

Workers have the right to strike in both the public and private sectors, and they exercised this right during the year; however, security forces, including the military

and gendarmes, are prohibited from striking. Requirements for conducting a legal strike were excessively lengthy and cumbersome. To be legal, strikes must be preceded by the union's presentation of demands, the employer's response to these demands, a conciliation meeting between labor and management, and a finding by an arbitration council that union and employer failed to reach agreement on valid demands. The union must provide eight days' advance written notification of a planned strike. The law states that if employers initiate a lockout that is not in accordance with the code, the employer is required to pay workers for all days of the lockout. The government has the authority to end strikes by invoking the public interest. The code makes no other provisions regarding sanctions on employers for acting against strikers.

b. The Right to Organize and Bargain Collectively.—The labor code provides that unions may bargain collectively in the public and private sectors, and provides workers protection from employer interference in the administration of a union.

Collective bargaining occurred in the private sector during the year. The government generally was not involved if the two parties were able to reach an agreement.

In the civil service, the government, which was the country's largest employer, set wages after consultation, but not negotiation, with government employee trade unions. Salary arrears continued to be a severe problem for military personnel and the 24,000 civil servants.

The law expressly forbids antiunion discrimination. The president of the labor court said the court did not hear any cases involving antiunion discrimination during the year.

Employees can have their cases heard in the labor court. The law does not state whether employers found guilty of antiunion discrimination were required to reinstate workers fired for union activities, although employers found guilty of such discrimination were required by law to pay damages, including back pay and lost wages.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—Although the labor code specifically prohibits forced or compulsory labor and prescribes a penalty of five to 10 years' imprisonment, the government did not enforce the prohibition effectively, and there were reports that such practices occurred. Women and children were trafficked for forced domestic, agricultural, mining, sales, restaurant labor, and sexual exploitation. Prisoners often worked on public projects without compensation. In rural areas, there were reported cases of the use of prisoners for domestic labor at some government officials' residences. However, in Bangui and other large urban areas, the practice was rare, partly because of the presence of human rights NGOs or lawyers. Prisoners often received shortened sentences for performing such work. Ba'Aka, including children, often were coerced into labor as day laborers, farm hands, or other unskilled labor, and often treated as slaves.

d. Prohibition of Child Labor and Minimum Age for Employment.—The labor code's prohibition of forced or compulsory labor applies to children, although they are not mentioned specifically. Other provisions of the labor code forbid the employment of children younger than 14 years of age without specific authorization from the ministry of labor; however, the ministry of labor and civil service did not enforce these provisions. Child labor was common in many sectors of the economy, especially in rural areas, and forced labor also occurred. Unlike in previous years, there were no reports that children were employed on public works projects or at the residences of government officials. The labor code provides that the minimum age for employment could be as young as 12 for some types of light work in traditional agricultural activities or home services. The law prohibits children younger than 18 years old from performing hazardous work or working at night. The law defines hazardous work as any employment that endangers children's physical and mental health. However, children continued to perform hazardous work during the year. The labor code does not define the worst forms of child labor.

According to data collected by UNICEF in surveys between 1999 and 2007, approximately 47 percent of children between the ages of five and 14 years were involved in child labor. UNICEF considered a child to be involved in labor if, during the week preceding the survey, children five to 11 years old performed at least one hour of economic activity or at least 28 hours of domestic work, and children 12 to 14 years old performed at least 14 hours of economic activity or at least 28 hours of domestic work.

Throughout the country, children as young as seven frequently performed agricultural work. Children often worked as domestic workers and fishermen, and in mines (often in dangerous conditions). International observers noted that children worked in the diamond fields alongside adult relatives, transporting and washing gravel, as

well as in gold mining, digging holes and carrying heavy loads. The mining code specifically prohibits child or underage labor; however, this requirement was not enforced during the year, and many children were seen working in and around diamond mining fields.

Some girls worked in prostitution (see section 6).

In Bangui many of the city's estimated 5,000 street children worked as street vendors.

During the year armed groups recruited and used child soldiers (see section 1.g.).

Displaced children continued to work in fields for long hours in conditions of extreme heat, harvesting peanuts and cassava, and helping gather items that were sold at markets, such as mushrooms, hay, firewood, and caterpillars.

e. Acceptable Conditions of Work.—The labor code states that the minister of labor must set minimum wages in the public sector by decree. The minimum wages in the private sector are established on the basis of sector-specific collective conventions resulting from negotiations between the employer and workers' representatives in each sector.

The minimum wage in the private sphere varies by sector and by kind of work. For example, the monthly minimum wage was 8,500 CFA francs (\$19) for agricultural workers and 26,000 CFA francs (\$58) for government workers.

The minimum wage only applies to the formal sector, leaving much of the economy unregulated in terms of wages. The minimum wages did not provide a decent standard of living for a worker and family, although wages increased during the year. The law applies to foreign and migrant workers as well. Most labor was performed outside the wage and social security system (in the extensive informal sector), especially by farmers in the large subsistence agricultural sector.

The law sets a standard workweek of 40 hours for government employees and most private sector employees. Household employees may work up to 52 hours per week. The law also requires a minimum rest period of 48 hours per week, for both citizens and foreign and migrant workers. Overtime policy varied according to the workplace; violations of overtime policy were taken to the ministry of labor, although it is unknown whether this occurred in practice during the year.

There are general laws on health and safety standards in the workplace, but the ministry of labor and civil service neither precisely defined nor enforced them. The labor code states that a labor inspector may force an employer to correct unsafe or unhealthy work conditions, but it does not provide the right for workers to remove themselves from such conditions without risk of loss of employment. There are no exceptions for foreign and migrant workers.

CHAD

Chad is a centralized republic with a population of approximately 10 million. In 2006 President Idriss Deby Itno, leader of the Patriotic Salvation Movement (MPS), was elected to a third term in what unofficial observers characterized as an orderly but seriously flawed election boycotted by the opposition. Deby has ruled the country since taking power in a 1990 coup. Political power remained concentrated in the hands of a northern oligarchy composed of the president's Zaghawa ethnic group and its allies. The executive branch dominated the legislature and judiciary. In May rebels crossed from Sudan into the east of the country and mounted an attack. On July 26, one of the main rebel factions, the National Movement (NM), signed a peace accord with the government. The government supported Sudanese rebels. Violent interethnic conflict and cross-border raids by Darfur-based militias continued, but on a smaller scale than in previous years. Banditry was a severe problem. An estimated 168,000 internally displaced persons (IDPs) remained in the country. Approximately 253,000 Sudanese refugees who had fled from violence in Darfur lived in camps along the border, and about 70,000 refugees from the neighboring Central African Republic (CAR) lived in the south. Civilian authorities did not maintain effective control of the security forces.

Human rights abuses included limitation of citizens' right to change their government; extrajudicial killings; politically motivated disappearances; torture, beatings, and rape by security forces; security force impunity; harsh and life-threatening prison conditions; arbitrary arrest and detention; incommunicado detention; lengthy pretrial detention; denial of fair public trial; executive interference in the judiciary; arbitrary interference with privacy, family, and correspondence; use of excessive force and other abuses in internal conflict, including killings and use of child soldiers; limits on freedom of speech, press, and assembly; widespread official corruption; obstruction of the work of nongovernmental organizations (NGOs); violence and

societal discrimination against women, including the widespread practice of female genital mutilation (FGM); child abuse, abduction, and trafficking; ethnic-based discrimination; repression of union activity; forced labor; and exploitive child labor.

Rebel groups, ethnic-based militias, Darfur-based militias, and bandits committed numerous human rights abuses. These abuses included killing, abducting, injuring, and raping civilians; use of child soldiers; and attacks against humanitarian workers.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were reports that the government or its agents committed arbitrary or unlawful killings. Civilians were killed in connection with the conflict in the east (see section 1.g.). Security forces committed politically motivated killings. Killings were often committed by “men in uniform,” and it was often not possible to determine whether perpetrators were members of the armed forces or police, and whether they were acting on official orders. The government generally did not prosecute or punish members of the security forces who committed killings.

On July 27, five unidentified corpses were found buried outside of Pala. Local residents claimed that the Chadian National Army (ANT) was responsible for the killings. Judiciary police transferred the bodies to a hospital. Officials did not open an investigation into the case.

On December 14, in N'Djamena, a person in military uniform killed Regine Doumro following a dispute.

There were no developments regarding civilians killed during the February 2008 rebel attack on N'Djamena and the government counterattack.

In contrast to the previous year, there were no reports that Chadian soldiers killed civilians and burned villages in CAR in support of nomadic Peuhl who drive their cattle across land used by farmers. There were no developments regarding reports that in 2008 the Chadian military destroyed several villages in the area of Maitoukoulou, CAR.

There were no developments regarding the 2008 incident in which security force members used excessive force in response to a confrontation in Kouno during which supporters of Sheikh Ahmet Ismael Bichara reportedly attacked security forces. Approximately 72 persons were killed, including an estimated 68 supporters of Bichara and four gendarmes. Bichara remained detained without charge while his case was under investigation.

In contrast to the previous year, there were no reports that security forces killed demonstrators.

There were no developments regarding numerous reported 2007 security force killings.

Unexploded ordnance including landmines laid by government, rebel, and foreign forces resulted in deaths (see section 1.g.).

On January 24, local media reported that unknown assailants in N'Djamena killed Gani Nassour Betchi, sister of rebel leader Tom Erdimi.

Attacks by armed bandits continued to increase during the year. Armed bandits operated on many roads, assaulting, robbing, and killing travelers; some perpetrators were identified as active duty soldiers or deserters.

For example, On January 1, armed bandits killed Abdoulaye Djibrine between Riga and Ngouboua. Authorities did not investigate the case.

On January 27, between the towns of Radaye and Kindjirai, armed bandits stopped Al Ahdji Ousmane. He was beaten and injured. Other targets of banditry included employees of humanitarian organizations and NGOs (see section 1.g.).

There were developments in the July 2008 killing of college professor Tenebaye Oringar. Media reports indicated that authorities detained two persons in Sarh for the killing and that their cases were pending trial.

No reported action was taken against the bandits who perpetrated numerous other 2008 and 2007 attacks and killings.

Interethnic fighting killed persons.

On April 12, according to a local NGO, an interethnic conflict between the Gouria and the Djillah Maibouloua and Deguia communities in Bol resulted in 13 deaths. Authorities arrested suspects and detained them pending trial. The NGO reported that on June 6, interethnic conflict, also in the Lake Chad region, resulted in two deaths.

On November 11, in Kana District, interethnic conflict involving herders and farmers resulted in nine deaths, as well as many injuries. Authorities arrested some

of perpetrators on both sides and transferred them to a prison in Moundou. At year's end they were still detained.

b. Disappearance.—There continued to be reports of politically motivated disappearances and persons being held incommunicado during the year, particularly in relation to the ongoing conflict with rebels (see section 1.g.).

The whereabouts of Ibni Oumar Mahamat Saleh, one of three prominent opposition leaders arrested in February 2008, remained unknown; there were no arrests in connection with the case (see section 1.g.).

The kidnapping of children for ransom was a problem in the Mayo-Kebbi Ouest Region. Armed persons, both local and from neighboring countries, reportedly kidnapped children. Peuhl children were particularly at risk due to perceptions that their families were wealthier than other ethnic groups. According to a local NGO, from 2007 to 2009, 148 children were kidnapped, and the total ransom money paid was approximately 157 million CFA (\$330,000). During the same period, 114 children held by bandits were killed, most often as a result of shots fired between the bandits and security forces that intervened when parents were unwilling or unable to pay the ransom.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution and law prohibit such practices; however, the government did not respect these provisions in practice. Members of the security forces tortured, beat, abused, and raped persons. Such practices also occurred in connection with the ongoing armed conflict. The government took no known action against security force members responsible for such abuse.

On March 19, military personnel in N'Djamena took Malloum Ousamane into custody; he was detained and tortured before being released four days later.

On March 26, a group of police in N'Djamena's District Five arrested 15-year-old Mahamat Nour Abrass. He was beaten and injured during detention. No action was taken against the policemen involved in his arrest.

On May 29, in N'Djamena, security agents kidnapped, detained, and tortured Yaya Erdimi, a relative of rebel leaders Tom and Timane Erdimi. He was later released.

Police, gendarmes, and ANT personnel raped women and girls.

On January 1, in Bol, military officer Moussa Kallih raped 11-year-old Zara Issa. Gendarmes arrested Kallih, and as of September he remained in detention.

On July 1, an 11-year-old girl reportedly was raped in Koumra by men in uniform.

On November 13, ANT soldiers kidnapped 10 girls who were attending a cultural event and raped them. The following day gendarmes freed the girls. No arrests were made in the case.

In trafficking and child labor-related cases, police reportedly resorted to extrajudicial actions against offenders, including beating them and imposing unofficial fines.

Prison and Detention Center Conditions.—Prison conditions remained harsh and life threatening. Prisons were seriously overcrowded, had poor sanitation, and provided inadequate food, shelter, and medical facilities. As a result of inadequate record-keeping and management, many individuals remained in prison after completing their sentences or after courts had ordered their release.

Local human rights organizations continued to report on the existence of military prisons to which access was prohibited; they also reported on the existence of secret National Security Agency (ANS) and General Directorate of Security Services for National Institutions (DGSSIE) prisons. They also reported on secret prisons under the authority of the Ministry of the Environment.

There were continued reports of persons being detained in a Ministry of Interior facility in Koro Toro. A progovernment newspaper cited several cases of persons being sent to Koro Toro, and local media reported that the facility was maintained in a nontransparent manner. Ministry of Interior officials continued to prohibit access to the facility by local and international human rights organizations.

Although the law provides that a doctor must visit each prison three times a week, this provision was not respected.

The law authorizes forced labor in prison for some crimes.

Most of the estimated 1,000 prison inmates who escaped during the February 2008 rebel attack on N'Djamena remained at large.

Juvenile males were not always separated from adult male prisoners, and children were sometimes held with their inmate mothers. Pretrial detainees were held with convicted prisoners.

The government permitted the International Committee of the Red Cross (ICRC) to visit civilian prisons under the control of the Ministry of Justice on a regular

basis, and during the year the ICRC conducted such visits. The government provided the Chadian Association for the Promotion and Defense of Human Rights (ATPDH) with a permanent authorization notice to visit civilian prisons at any time without advance notice. Other NGOs, including human rights groups, were required to obtain authorization from a court or from the director of prisons; such authorizations depended largely on the personal inclinations of those with authority to grant permission. Local NGOs were not allowed access to military prisons.

The government restricted the access of international monitors to Ministry of Interior and defense detention centers. The ICRC had difficulty identifying all detention centers under the control of the Ministry of Interior or the Presidency. The ICRC visited some official Ministry of Interior detention facilities but sometimes had difficulty gaining access. The government denied repeated requests by the ICRC for access to the Koro Toro detention facility. The ICRC sometimes visited detention facilities under the Ministry of Defense's control.

The prison oversight committee established in 2008 to monitor standards in Ministry of Justice detention centers was not active during the year.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention; however, security forces often violated these provisions.

Role of the Police and Security Apparatus.—The ANT, gendarmerie, national police, nomadic guard (GNNT), DGSSIE, and ANS are responsible for internal security. The Integrated Security Detachment (DIS) is responsible for reducing insecurity in refugee camps and for protecting refugees and IDPs (see section 1.g.).

The ANT, gendarmerie, and GNNT report to the Ministry of Defense; the National Police report to the Ministry of Interior; the DGSSIE and ANS report to the president. Officers from President Deby's ethnic group and closely allied ethnic groups dominated the ANS. The DGSSIE's ethnic composition was mixed, but its officers were also primarily Zaghawas. Security force impunity and corruption were widespread.

The police force was centrally controlled, but exercising oversight, particularly outside N'Djamena, was difficult. Police generally enjoyed impunity. Police and gendarmes extorted payments from motorists. The police force was unable to effectively address internal security problems, including widespread banditry and arms proliferation.

The Environment Ministry worked with the gendarmerie, Ministry of the Interior, and other law enforcement entities to monitor violations of environmental protection statutes, including those related to the recently outlawed practice of cutting down trees and making and selling charcoal. The interagency group does not have authority to arrest or detain individuals; however, it did so, and it harassed persons in possession of charcoal, a practice that was not outlawed, by requiring bribes from them.

Arrest Procedures and Treatment While in Detention.—Although the constitution and law require a judicial official to sign arrest warrants, the government often did not respect this requirement, and secret detentions occurred. Detainees were not promptly informed of charges, and judicial determinations were not made promptly. The law requires access to bail and counsel, but neither was regularly provided. Incommunicado detention was a problem, and there were reports that persons held incommunicado were tortured. The constitution and law state that legal counsel should be provided for indigent defendants and that defendants should be allowed prompt access to family members; however, in practice this usually did not occur.

Security forces arbitrarily arrested and reportedly tortured detainees, particularly those suspected of collaborating with rebels.

On August 27, gendarmes in Pala stopped and subsequently arrested and detained prominent businessman Mahamat Zen during a night patrol. Security forces reportedly accused him of associating with rebels because he was carrying a knife. Zen was later released; he stated that he had no such rebel affiliation.

In October security forces arbitrarily detained Koumande Barka, a civil servant, who was traveling between Kelo and N'Djamena with proper travel authorization. The security forces were reportedly seeking information regarding his brother, a member of the military. He was later released.

Security forces arrested and detained a political leader, as well as a civil society representative.

On March 11, the interagency group charged with combating poaching and environmental degradation arbitrarily arrested Mbairam Gedeon, a Moundou policeman, who was found to be in possession of charcoal. Possession of charcoal was not illegal. He was detained outside of N'Djamena, without charge, by the Ministry of Water and Forestry.

On June 9, the NGO Chadian League for Human Rights (LTDH) reported that the commandant of the gendarmerie in Kelo, Mahamat Hachim, arrested Bandal Tchatcha, a local human rights activist, for having made a radio report concerning police harassment of those in possession of charcoal who had not committed crimes. He was released after 48 hours.

On June 14, the interagency group charged with combating poaching and environmental degradation arrested and detained Ndjiladengar Ndendongarti, a delegate to the Lake Chad Basin Commission, for cutting down a live tree without obtaining prior permission. This crime does not carry a penalty of detention. He was released on July 27.

Lengthy pretrial detention remained a problem. Persons accused of crimes could be imprisoned for several years before being charged or tried, particularly those who were arrested in the provinces for felonies and transferred to prison in N'Djamena.

There were no reported developments in the numerous 2008 cases of arbitrary arrest and detention.

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary; however, the judiciary was ineffective, underfunded, overburdened, vulnerable to intimidation and violence, and subject to executive interference. In practice government officials and other influential persons often enjoyed impunity. Members of the military continued to enjoy a particularly high degree of impunity. The Judiciary Police did not usually enforce domestic court orders against military members or persons of the Zaghawa ethnic group, to which the president belongs. However during the year, the two colonels of Zaghawa ethnicity that a court in October 2008 ordered to return property they had forcibly taken from landowner Moussa Pepe, complied with the order.

Members of the judiciary received death threats or faced demotion or removal from their positions for not acquiescing to pressure from officials. For example, on August 13, Brahim Abbo, a judge with the Court of Justice in Abeche, received death threats at his workplace.

At the national level, a supreme court, constitutional court, and court of appeals exist; some of their members were appointed by the government rather than elected by citizens as required by law, which weakened judicial independence. The constitutionally mandated High Court of Justice can try high-ranking government officials whose cases are submitted by the National Assembly. Crimes committed by military members are to be tried by a military court; however, no such courts have been established and the criminal court of justice tried military offenders.

At the provincial level, there are appellate courts in Moundou, Sarh, and Abeche that began to function during the year in addition to those in N'Djamena. The Abeche Court of Appeals included four functioning tribunals in Faya, Mongo, Biltine, and Ati. Eight additional judges had duties in the various courts in the region.

The constitution and law mandate that the Superior Council of Magistrates recommend judicial nominees and sanction judges who commit improprieties; however, the government prevented any sanctions from being considered or carried out.

A five-judge judicial oversight commission has the power to conduct investigations of judicial decisions and address suspected miscarriages of justice. However, in contrast to the superior council, commission members are appointed by the president, which increased executive control over the judiciary and diminished the authority of the superior council. Parties to judicial cases can appeal to the commission.

Trial Procedures.—Applicable law was sometimes confusing, as courts tended to blend the formal French-derived legal code with traditional practices, and customary law often superseded Napoleonic law in practice. Residents of rural areas often lacked access to formal judicial institutions, and legal reference texts were not available outside the capital. In most civil cases, the population relied on traditional courts presided over by village chiefs, canton chiefs, or sultans. However, decisions can be appealed to a formal court.

The law provides for a presumption of innocence; however, in practice many judges assumed a suspect's guilt, particularly in crimes involving rape or theft. Trials are public and use juries, except in politically sensitive cases. Defendants have the right to be present in court. They also have the right to consult an attorney in a timely manner; however, in practice detained persons were not always given access to counsel. The law states that indigents should be provided promptly with legal counsel, but this seldom occurred in practice. Human rights groups sought to improve this situation and sometimes provided free counsel themselves. Defendants, their lawyers, and judges are permitted by law to question witnesses. Defendants have the right to present witnesses and evidence on their own behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases,

except in politically sensitive cases. Defendants have the right to appeal decisions. The law extends these rights to all citizens.

Local leaders decide in a particular case whether to apply the Muslim concept of *dia*, which involves a payment to the family of a crime victim. The practice was common in northern Muslim areas. Non-Muslim groups, which supported implementation of a civil code, continued to challenge the use of the *dia* concept, arguing that it was unconstitutional. They accused the government of supporting *dia* practices by permitting the existence of local tribunals, some of which used Shari'a (Islamic law), unconnected with the Ministry of Justice.

On September 25, Mahamat Abdoulaye, president of the Development and Peace Movement for Chad (a party allied with the ruling MPS) was arrested and detained in the main prison of N'Djamena following allegations that he made contact with rebel leader Timane Erdimi. On November 9, Mahamat Abdoulaye was sentenced to three years in prison for treason. Local human rights groups claimed that contact with a rebel is insufficient grounds to find that an individual poses a danger to the state, and that as such Abdoulaye's conviction was unfair.

Political Prisoners and Detainees.—There were reports that the government held political detainees during the year.

Civil Judicial Procedures and Remedies.—The judiciary reportedly was not always independent or impartial in civil matters. There are administrative and judicial remedies available such as mediation for alleged wrongs.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution states that individuals have the right to privacy, and that the home is inviolable. The constitution allows for freedom of communication, but allows for it to be restricted so as not to infringe on the rights of others, and to safeguard public order and good morals. The government conducted illegal searches and wiretaps and monitored private mail and e-mail. Security forces regularly stopped citizens and extorted money or confiscated belongings.

Home demolitions in N'Djamena, which began in 2008, continued into the year. A September report by Amnesty International stated that tens of thousands of persons had lost their homes since the demolitions began. Officials continued to state that the homes were illegally built on government-owned land that was needed for public works projects. Several persons charged that the homes were destroyed without due process, and took their cases to court. Many of the families had built on land without having title to it, but others reportedly had title. At year's end the court cases were pending.

The Ministry of Interior banned both the possession and use of satellite telephones. Military and police personnel searched for and confiscated satellite telephones.

There were occasions when police officers arrested family members of suspects.

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—During the year fighting in the east between the government and rebel groups continued and reportedly resulted in civilian deaths and the destruction of homes and property. From May 4 to 7, Chadian rebels mounted an attack, crossing from Sudan into the east of the country. Government forces pushed the rebels back into Sudan. In December fighting also occurred between government forces and rebels in the vicinity of Tisse, in the southeast.

Groups, both large and small, of rebels renounced their rebel associations during the year. The government permitted those who renounced their rebel associations to integrate into the ANT or civilian life without being arrested. On July 25, the government signed a peace agreement with the NM, a rebel group coalition led by Ahmat Hassaballah Soubiane. Soubiane was one of the 11 rebel leaders sentenced in absentia in August 2008 to life in prison; he was granted amnesty in December 2009. Between 2,000 and 3,000 rebels had returned to Chad by year's end.

A UN panel of experts found that the government continued to support the Justice and Equality Movement (JEM), a Sudanese rebel group. JEM vehicles and personnel continued to circulate in the east of Chad.

There were no developments regarding the numerous cases of abuse reported by the commission of inquiry to examine disappearances and other abuses that occurred from January 28 to February 8—the period before, during, and after the 2008 rebel attack on N'Djamena. In August 2008 the commission released a report that stated that 977 persons—including civilians, ANT personnel, and rebels—were killed, 1,758 injured, 34 raped, and 380 detained in N'Djamena and the provinces during that period. During the year the government established an additional subcommittee under the minister of justice to reexamine cases discussed in the commission's report. No related trials occurred during the year.

Although on a smaller scale than in previous years, interethnic conflict and cross-border raids by Darfur-based militias continued.

Banditry was a severe problem; it increased during the year and reduced the ability of humanitarian organizations to provide services. Vast areas along the border with Sudan were not protected by the government.

In 2007 the UN Security Council authorized the deployment of the European Union Force (EUFOR) and a UN Mission in the Central African Republic and Chad (MINURCAT) to protect civilians and promote human rights and the rule of law in eastern Chad and northeastern CAR. On March 15, EUFOR's mandate ended and all operational control was handed over to MINURCAT per UN Security Resolution 1861 of 2009. MINURCAT's mandate also includes supporting regional peace. As of September 30, MINURCAT was 55 percent deployed. MINURCAT had trained and deployed 850 DIS personnel as of September. The DIS are Chadian forces responsible for security in refugee camps, IDP sites, and key towns in the east.

Killings.—Persons were reportedly killed during fighting between the government and rebels in the east.

Human Rights Watch stated that there were reports that government forces committed extrajudicial killings of rebels, committed incidents of sexual assaults, and used child soldiers during and after fighting with rebels in Am Dam. According to Human Rights Watch, on May 7, ANT soldiers summarily executed at least nine rebels and government tanks killed civilians while crushing homes that government forces believed to contain rebels. Human Rights Watch also reported that on May 7, ANT soldiers reportedly sexually assaulted a girl and a woman in a neighboring village.

There were no developments in the cases of civilian deaths associated with the February 2008 rebel attacks and government counterattacks.

Security forces killed other persons in the east during the year, in addition to those reportedly killed during the fighting.

On March 22, a DIS commander in Farchana reportedly killed a civilian during a private dispute. Gendarmes arrested the officer, and he was charged with murder.

On June 8, three DGSSIE personnel in Goz Beida killed Denemadji Rachel following a dispute with her at her family's shop.

On June 11, Colonel Hissein Khalifa was reportedly killed by military personnel in Goz Beida following allegations that he was in contact with rebel leaders.

There were no reported developments regarding the 2008 or 2007 ethnic clashes.

On April 7, a French soldier serving with EUFOR shot and killed two other EUFOR soldiers and a MINURCAT soldier and later a Chadian civilian. Authorities arrested the soldier the same day, and he was sent back to France.

Abductions.—In February Mianadji Job disappeared while travelling between N'Djamena and Abeche. His family asserted that the ANS kidnapped him as a result of allegations that he sought to join a rebel group. No investigation was undertaken to find him, although his case was reported to the Justice Ministry.

There were developments regarding Haroun Mahamat Abdoulaye, a sultan of Dar Tama. On July 20, authorities arrested Abdoulaye; he was released several months later. Abdoulaye was previously arrested in 2007 along with others alleged to have links to rebels and detained without charge.

There were no developments in the case of opposition leader Ibni Oumar Mahamat Saleh, whom security forces arrested in February 2008, and his whereabouts remained unknown.

The whereabouts of at least 135 rebels captured during the February 2008 attack on N'Djamena remained unknown at year's end.

Physical Abuse, Punishment, and Torture.—Security forces tortured, beat, arrested, detained, and abused persons suspected of rebel activity or collaboration with rebels.

Unexploded ordnance including landmines laid by government, rebel, and foreign forces resulted in civilian deaths. For example, unexploded ordnance killed six children in Koukou Angarana and Goz Beida following the fighting in May; and on October 1, unexploded ordnance killed four children and injured another person in Kawa.

Government forces, organized groups, and bandits raped civilians. Female refugees and IDPs were subjected to rape (see section 2.d.).

The DIS included 87 women as of September. Humanitarian workers reported that having female security force members patrolling camps gave more confidence to female refugees to report gender-based violence.

Child Soldiers.—The law prohibits the use of child soldiers; however, child soldiers were used by the ANT, Chadian rebel groups, the JEM, and other armed groups. There were reports that the DGSSIE also used child soldiers.

Armed groups from both Chad and Sudan, including JEM, recruited children from refugee camps along the eastern border.

The UN Children's Fund (UNICEF) reported the government took steps during the year to eliminate the use of child soldiers, but in some areas recruitment continued. During August and September, military officials, along with representatives of international organizations, visited security force installations in Abeche, N'Djamena, Moussoro, and Mongo to identify child soldiers and raise awareness regarding the prohibitions against their use.

The government transferred 240 child soldiers to UNICEF for reintegration and rehabilitation during the year. Most of the children were formerly associated with rebel groups. For example, on June 12, the government turned over to UNICEF approximately 80 child soldiers who were part of an estimated 200 rebels captured during the fighting in early May. The government cooperated with international efforts to provide rehabilitation services.

Other Conflict-Related Abuses.—Armed groups and bandits attacked humanitarian and human rights NGO workers, and during the year such attacks increased. Insecurity severely hindered the ability of humanitarian organizations to provide services, including food distribution, to refugees and IDPs. Humanitarian organizations temporarily suspended or limited activities due to insecurity.

During the May rebel attack, the UN suspended humanitarian services in several locations.

During the year humanitarian and human rights NGO vehicles were hijacked, numerous convoys were attacked and looted, and humanitarian offices were robbed. Humanitarian workers were killed during the year. Individuals in uniform demanded the payment of bribes from humanitarian workers in vehicles in exchange for safe passage. Armed men also abducted humanitarian NGO workers.

On August 4, armed men attacked a Medecins Sans Frontieres Holland compound and abducted one local and one international staff member. The local staff member escaped soon after. The assailants held his colleague until September 1.

On November 7, north of Ade, six armed men attacked a vehicle carrying members of the humanitarian NGO Solidarites. Driver Adoum Makaila died from his injuries.

On November 9, in Kawa, armed men abducted ICRC international staff member Laurent Maurice. He was still held at year's end.

Armed bandits also attacked government officials.

For example, on October 24, armed men killed Michel Mitna, head of the Guereda office of the government's National Commission for the Reception and Reinsertion of Refugees. He was returning from Kounoungo Camp. The bandits also injured Mitna's driver.

There were no developments regarding the 2008 killing of NGO Save the Children director Pascal Marlinge.

The overall number of IDPs decreased from 185,000 in August 2008 to 167,000 in January 2009. In September there were approximately 168,000 IDPs.

With less frequency than in previous years, attacks continued to occur throughout the east by janjaweed-like mounted raiders from Sudan, Chadian rebels, and Chadian ethnic militias, both Arab and non-Arab.

Chadians regularly moved to and from Sudan. The movements reflected seasonal migration but were also in response to insecurity.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of opinion, expression, and of the press, but it allows for these to be restricted so as to not infringe on the rights of others, and to safeguard public order and good morals. The constitution prohibits propaganda of an ethnic, regionalist, or religious nature that affects national unity or the secular nature of the state; however, the government did not respect these rights in practice, and the February 2008 presidential decree that revised the press law to include additional restrictions on speech and the press remained in effect. Journalists and publishers practiced self-censorship.

The 2008 press law revisions include punishments that can include imprisonment for three to five years for articles whose purpose is to cause tribal, racial, or religious hatred. The revisions provide for increased penalties, including imprisonment, for defamation of the courts, security forces, and public administration. Offending the president is punishable by one to five years' imprisonment and/or a fine, as is publicly offending foreign high-level government officials. Conspiring with the enemy is punishable by up to three years' imprisonment and/or a fine. The revisions also include additional requirements for establishing a newspaper. Human rights organizations and newspapers criticized the restrictions. There were no reports the government enforced the law during the year.

Individuals who publicly criticized the government often faced reprisal (see section 1.d.). There were reports that the government attempted to control criticism by monitoring meetings of the political opposition and that the government attempted to intimidate its critics.

The government owned the newspaper *Info Tchad* and influenced another, *Le Progres*. Government-controlled media were subject to censorship but sometimes criticized the government. Independent print media often criticized the government.

The government deported a journalist and temporarily suspended publication of a newspaper owned by an opposition figure. On October 14, authorities deported the editor of *La Voix du Tchad*, Innocent Ebode, a Cameroonian. Authorities stated that he did not have a proper authorization to be in the country. However, it was also widely believed that he was deported in part as a result of a piece he wrote that included comments critical of President Deby. On December 3, the High Council for Communications (HCC) ordered *La Voix du Tchad* to cease publication because it was not licensed.

Radio remained the most important medium of mass communication. Government-owned Radiodiffusion Nationale Tchadienne had several branches. There were numerous private radio stations that broadcast throughout the country, many of them owned by religious organizations, including four stations affiliated with the Catholic NGO BELACD.

The licensing fee set by the HCC for a commercial radio station remained prohibitively high at approximately five million CFA (approximately \$11,000) per year, 10 times the fee for radio stations owned by nonprofit NGOs. The HCC monitored and censored the content of radio station programming.

The government owned and operated the only domestic television station but did not interfere with reception of channels originating outside the country.

The government censored the media by restricting content through laws and other mechanisms. Some journalists in rural areas reported that government officials warned them not to engage in any contentious political reporting. In addition, some domestic journalists claimed the government restricted their ability to cover some events or visit certain locations and limited their access to high-ranking officials, restrictions the government did not impose on foreign journalists.

On May 14, in N'Djamena, a local journalism association convened local media professionals to discuss difficulties faced by journalists.

Internet Freedom.—There were no government restrictions on access to the Internet; however, the government reportedly monitored e-mail. Although increasingly available to the public at Internet cafes, most persons could not afford Internet access. Lack of infrastructure limited public access elsewhere. According to International Telecommunication Union statistics for 2008, approximately 1.19 percent of the country's inhabitants used the Internet.

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

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The constitution provides for freedom of assembly but allows for it to be restricted so as not to infringe on the rights of others, and to safeguard public order and good morals. The government did not respect this right in practice. The law requires organizers of demonstrations to notify the government five days in advance.

On January 14, police reportedly broke up a protest against high costs of living and a government ban on the use of charcoal.

There were no developments regarding the violent dispersal of demonstrators in 2008 and 2007.

Freedom of Association.—The constitution and law provide for freedom of association, but allow for it to be restricted so as not to infringe on the rights of others and to safeguard public order and good morals. The government respected this right in practice.

An ordinance requires prior authorization from the Ministry of Interior before an association, including a labor union, may be formed; however, there were no reports that the ordinance was enforced. The ordinance also allows for the immediate administrative dissolution of an association and permits authorities to monitor association funds.

c. Freedom of Religion.—The law provides for religious freedom but allows for it to be restricted so as not to infringe on the rights of others, and to safeguard public order and good morals. The government continued to restrict some religious organizations and practices. The law also provides for a secular state; however, some policies favored Islam in practice. For example, a committee composed of members of the High Council for Islamic Affairs and the Directorate of Religious Affairs in the Ministry of Interior organized the Hajj and the Umra.

The 2007 ban on all forms of street-corner evangelization and preaching remained in effect.

The government continued to ban Al Mountada al Islami, the World Association for Muslim Youth, the Mecca Al-Moukarrama Charitable Foundation, and Al Haramain Charitable Foundation for promoting violence to further religious goals.

The Islamic religious group Faid al-Djaria remained banned on the grounds that its religious customs, including men and women singing and dancing together in religious ceremonies, were un-Islamic.

Societal Abuses and Discrimination.—Although the different religious communities generally coexisted without problems, there were reports of tensions between the High Council for Islamic Affairs and fundamentalist elements within the Muslim community. During the year there were regular meetings between key religious leaders of all faiths to discuss peaceful collaboration among groups.

There was no known Jewish community and no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—Although the constitution and law provide for freedom of movement, foreign travel, emigration, and repatriation, in practice the government imposed some limits on these rights.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, and other persons of concern.

The Ministry of Territorial Administration required foreigners, including humanitarian agency personnel, to obtain authorization to travel to the eastern part of the country.

Security forces, bandits, and, to a lesser extent than in previous years, rebel groups continued to maintain roadblocks, extorting money from travelers, often beating them, and in some cases killing them.

The activities of armed bandits, herders involved in cross-border conflict over resources, and rebel groups along the border with CAR continued to hinder free movement in the region.

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

Internally Displaced Persons (IDPs).—The estimated overall number of IDPs decreased from 185,000 in August 2008 to 167,000 in January 2009. In September there were approximately 168,000 IDPs.

The government continued to allow IDPs access to humanitarian organizations and permitted them to accept assistance provided by these groups. Although UN and humanitarian organizations operated in the country during the year, lack of security lessened their ability to provide services to IDPs and refugees. The government did not attack IDPs or forcibly return or resettle them under dangerous conditions.

Protection of Refugees.—The country is party to the 1951 Convention relating to the Status of Refugees, its 1967 Protocol, and the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. The law, however, does not provide for the granting of asylum or refugee status in accordance with the 1951 convention and its 1967 protocol, but the government has established a system for providing protection to refugees.

In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

In November the number of Sudanese refugees from Darfur in the country was 253,000; most of these refugees were located in 12 camps along the eastern border with Sudan. The number of refugees from CAR increased from 56,000 in June 2008 to about 70,000 in 2009. Most of those refugees lived in five camps in the south. Most new refugees from CAR that arrived during the year were located near Daha, in the southeast. There were also approximately 5,000 refugees of various nationalities living in urban areas.

Insecurity in the east, including rebel and bandit attacks, hindered the ability of humanitarian organizations to provide services to refugees. NGO workers traveling between camps were frequently victims of carjackings and armed robberies.

The UNHCR and its partner organizations continued to express concern regarding the potential for militarization of refugee camps by Sudanese and Chadian rebels, particularly camps located close to the border. The recruitment of some refugees, including children, into armed groups continued (see section 1.g.). Women were raped in and near refugee camps, including by ANT soldiers. Antirefugee sentiment among

citizens living in refugee-affected areas was high, due to competition for local resources such as wood, water, and grazing land, and because Sudanese refugees received goods and services that were not available to the local population.

A September Amnesty International report documented cases of rape inside and outside of refugee camps that occurred both during the year and in previous years. Rapes were committed by ANT personnel, organized groups, bandits, and other refugees. Amnesty International received reports of rape and violence against refugees committed by staff of humanitarian organizations. According to Amnesty International, the NGO staff in the reported cases were removed from their jobs. A May report by the NGO Physicians for Human Rights also discussed cases of female Darfuri refugees being raped in Chad.

The DIS aided in protection of refugee and IDP camps in the east (see section 1.g.). UNICEF reported that the DIS investigated cases of adults who reportedly forced children into prostitution in refugee camps.

Information on whether the government provided temporary protection to individuals who may not qualify as refugees under the 1951 convention or the 1967 protocol was not available.

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

Although the constitution and law provide citizens with the right to change their government, the government continued to limit this right in practice. The executive branch dominated the other branches of government.

Elections and Political Participation.—In 2006 President Deby, leader of the ruling MPS, was reelected to a third term in what unofficial observers characterized as an orderly but seriously flawed election that was boycotted by the opposition. The government had dismissed appeals from the opposition, civil society, religious groups, and some members of the international community to postpone elections and organize a national dialogue. Observers noted low voter participation, underage voting, multiple voting, and other irregularities.

In August 2007 the government and the opposition coalition signed an agreement that delayed communal and legislative elections, originally scheduled for 2005, until 2009; however, legislative elections did not take place during the year. There was progress in implementing other provisions of the 2007 agreement. The government and the political opposition worked together and with the National Assembly to implement elements of the accord. This included conducting a population census, issuing a decree pertaining to the electoral code, adoption of new legislation on political parties, and the creation of an independent national electoral commission.

There were approximately 120 registered political parties at year's end. Political parties were subject to outside interference. During the year opposition leaders were subject to harassment, but unlike in the previous year none disappeared. Opposition political leaders accused the government of co-opting politicians to run as MPS members in local elections or to cross the aisle in the National Assembly, and alleged that the military intimidated party members who refused to cooperate. Parties allied with the government generally received favorable treatment. Northerners, particularly members of the Zaghawa ethnic group, including the Bideyat subclan to which the president belongs, continued to dominate the public sector and were overrepresented in key institutions of state power, including the military officer corps, elite military units, and the presidential staff.

There were 10 women in the 155-seat National Assembly. There were five women among 41 ministers in the cabinet.

Both the cabinet and the National Assembly had diverse ethnic representation.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for corruption. Officials frequently engaged in corrupt practices. The World Bank's most recent Worldwide Governance Indicators reflected that corruption was a severe problem.

On August 26, the International Crisis Group released a report regarding the relationship between governance and revenues from the Chad-Cameroon oil pipeline project. According to the report, the government did not transparently award contracts for public works built with oil revenues, which increased corruption and cronyism. The report also stated that the government had gradually reduced the role of the College for the Control and Monitoring of Oil Resources, a committee established to involve civil society in the management of oil revenues.

The Ministry of Moralization is responsible for fighting corruption and carried out anticorruption seminars for government employees. During the year the ministry reported several cases of bribery, embezzlement, misappropriation, and financial mismanagement. This included 1.5 billion CFA (approximately \$3.2 million) in false

contracts made by officials at the ministries of education and finance; 810 million CFA (\$1.7 million) missing from the National Office for Food Security; 244 million CFA (\$522,000) stolen from the regional treasury in Moundou; and 120 million CFA (\$257,000) embezzled from the municipality and regional treasury in Sarh.

On August 15, the Ministry of State Oversight stated that it had initiated 35 legal cases against 141 government officials charged with embezzlement and misappropriation of public funds during the year.

During the year the government dismissed several government agents from their jobs for corruption and embezzlement, including high-profile officials such as the director general of the National Social Insurance Fund (CNPS); the commercial director of CotonChad, the state-owned cotton company; and the chief officer of the Land Registry Office (Cadastre).

In August and September, authorities arrested and detained the following officials on suspicion of corruption: the financial oversight officer of the Ministry of Finance, the Treasury bursar, both the then-current and the former administrative, material, and financial directors at the Ministry of Education, the director general of CNPS, the chief officer of the Cadastre, and the former head of the HCC.

The College for the Control and Monitoring of Oil Resources published its report for 2008 on December 22, 2009. It identified deficiencies that included insufficient coordination between ministries and with local officials, lack of qualified personnel to implement and oversee poverty reduction projects, and the inability of the government to fully complete or to provide sufficient resources for ongoing projects. The report thanked the Ministry of Morality, which includes the office of corruption, and the Ministry of Infrastructure and Transport for positive cooperation with the college in 2008. The government had taken no clear action on findings in the college's previous reports by year's end.

The law does not provide for public access to government information, although the government provided such access to government-employed journalists. The government makes its budget partially available to the public; however, it did not disclose a large portion of expenditures in the published budget. Independent media journalists stated that they were not given sufficient access to government information.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The government continued to obstruct the work of domestic human rights organizations.

On June 9, authorities arrested a human rights activist after he made a radio report critical of the police (see section 1.d.).

On October 23, unknown persons went to the home of LTDH president Massalabaye Tenebaye; he was not at home and they left. Between October 13 and 16, unknown persons also followed Tenebaye.

There were two principal local human rights organizations, the ATPDH and the LTDH. These and smaller human rights organizations worked together through an umbrella organization, the Association for Human Rights.

Government officials generally were accessible to human rights advocates but were often unresponsive or hostile to their findings. Nevertheless, such groups were able to investigate and publish their findings on human rights cases.

On October 27-28, the government held a human rights forum in Abeche. In August it held a similar forum in N'Djamena.

During the year unidentified assailants and armed bandits also attacked numerous NGO employees during the year, resulting in deaths and injuries (see section 1.g.). The lack of security in the east reduced the ability of humanitarian organizations to provide services.

Despite pressure from the government, human rights groups were outspoken in publicizing abuses through reports, press releases, and the print media, but only occasionally were they able to intervene successfully with authorities.

The government continued to obstruct the work of international human rights organizations, such as the NGO Human Rights Watch.

The government cooperated with international governmental organizations and permitted visits by UN representatives. Between February 3 and 9, the UN representative of the secretary general on the human rights of IDPs, Walter Kailin, visited the country. His report expressed concern regarding child recruitment and gender-based violence at IDP sites, and crimes committed with impunity against IDPs and humanitarian workers. The assistant secretary-general for rule of law and security institutions in the Department of Peacekeeping Operations (DPKO) Dmitry Titov also visited the country in February.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Although the constitution and law prohibit discrimination based on origin, race, gender, religion, political opinion, or social status, the government did not effectively enforce these provisions. The government favored its ethnic supporters and allies.

Women.—Rape is prohibited and punishable by hard labor. Rape, including of female refugees, was a problem (see section 2.d.); no reliable data was available. The law does not specifically address spousal rape. Although police often arrested and detained perpetrators, rape cases usually were not tried and in most cases suspects were released.

Although the law prohibits violence against women, domestic violence, including spousal abuse, was common. Wives traditionally were subject to the authority of their husbands, and they had limited legal recourse against abuse. Although family or traditional authorities could provide assistance in such cases, police rarely intervened. Information on the number of abusers who were prosecuted, convicted, or punished was not available.

In some places girls and women may not visit the site where an initiation ceremony is to take place. If a woman or girl violates this prohibition, under traditional custom the village leaders can kill her, although there were no reports of this occurring during the year.

The law prohibits prostitution; however, it was prevalent in larger urban areas and in the south.

The law does not prohibit sexual harassment, and such harassment was a problem.

The law provides for the right of couples and individuals to decide freely and responsibly the number and spacing of their children, as well as to have access to information regarding birth control methods. However, many persons lacked access to medical care, particularly those in rural areas. Couples lacked access to contraception, and only 14 percent of childbirths were assisted professionally. The ratio of midwives to women of childbearing age was one to 14,800. Ten percent of married women in N'Djamena used contraceptives during the year. Five percent of women in towns and 0.4 percent of women in the countryside used contraception. Women were equally diagnosed and treated for sexual transmitted infections, including HIV, treatment for which was free.

Discrimination against women and exploitation of women were widespread. Although property and inheritance laws do not discriminate against women, local leaders adjudicated most inheritance cases in favor of men, according to traditional practice. The Ministry of Social Action and Women is responsible for addressing gender-related issues. Women did not have equal opportunities for education and training, making it difficult for them to compete for formal sector jobs. Women experienced economic discrimination in access to employment, credit, and pay equity for substantially similar work, and in owning or managing businesses due to cultural norms that favored men.

The law states that persons of the required legal age have the right, in accordance with the law, customs, and mores, to decide whether to be married. The law does not address polygyny, but husbands may opt at any time to declare a marriage polygynous. If a husband takes a second wife, the first wife has the right to request that her marriage be dissolved, but she must repay her bride price and other marriage-related expenses.

The government, with assistance from the UN, launched an awareness raising campaign to combat gender-based violence. This included raising awareness regarding rape, sexual harassment, female genital mutilation (FGM), discrimination against women, and early marriage.

Children.—The law provides for citizenship to be derived by birth within the country's territory and from ones' parents; however, in practice children born to refugees from Sudan were not always considered citizens. Children born to refugees from CAR were generally granted Chadian citizenship. The government did not register all births immediately.

By law education is universal and free, and primary education is compulsory between the ages of six and 11; however, in practice parents were required to pay tuition to public schools beyond the primary level. Parents were required to pay for textbooks, except in some rural areas. Parent-teacher associations hired and paid approximately half of teachers, without government reimbursement. Schools did not exist in many locations. Most children did not complete primary education. Educational opportunities for girls were even more limited than for boys. Girls' enrollment in primary school was lower than that of boys. Most children did not attend secondary school, where enrollment of girls was lower than that of boys.

Several human rights organizations reported on the problem of the mouhadjirin, children who attended certain Islamic schools and whom their teachers forced to beg for food and money. There was no reliable estimate of the number of mouhadjirin.

Children who were refugees or IDPs had limited access to services such as education and health care, although refugee access to such services and care sometimes exceeded that of surrounding Chadian populations.

Child abuse remained a problem.

The law prohibits the practice of female genital mutilation (FGM); however, FGM was widespread, particularly in rural areas. According to a 2004 report by the governmental National Institute of Statistics, Economic, and Demographic Studies, 45 percent of females had undergone excision. According to the survey, 70 percent of Muslim females and 30 percent of Christian females were subjected to FGM. The practice was especially prevalent among ethnic groups in the east and south. All three types of FGM were practiced. The least common but most dangerous and severe type, infibulation, was confined largely to the region on the eastern border with Sudan. FGM usually was performed prior to puberty as a rite of passage.

FGM could be prosecuted as a form of assault, and charges could be brought against the parents of FGM victims, medical practitioners, or others involved in the action. However, prosecution was hindered by the lack of specific penalty provisions in the penal code. There were no reports that any such suits were brought during the year. The Ministry of Social Action and Family was responsible for coordinating activities to combat FGM. The government, with assistance from the UN, conducted public awareness campaigns to discourage the practice of FGM and highlight its dangers as part of its efforts to combat gender-based violence. UNICEF reported that the campaign encouraged persons to speak out against FGM and other forms of abuse against women and girls.

Although the law prohibits sexual relations with a girl younger than 14, even if she is married, the ban was rarely enforced. Families arranged marriages for girls as young as 12 or 13; the minimum legal age for engagements is 11. The law prohibits forced marriages of anyone younger than age 18 and provides for imprisonment of six months to two years and a fine of 50,000 to 500,000 CFA (\$107-1,171). However, forced marriage of girls was a serious problem, including among refugees. The custom of buying and selling child brides continued to be widespread. Girls that objected to being forcibly married often suffered physical assaults by their family members and their husband. Many young wives were forced to work long hours for their husbands in the fields or home.

The government and other armed groups continued to use child soldiers (see section 1.g.).

Armed bandits kidnapped children to obtain ransom in the Mayo-Kebbi Ouest Region (see section 1.b.).

Trafficking in Persons.—The law does not specifically prohibit trafficking in persons; however, traffickers could be prosecuted under statutes prohibiting child abduction, sale of children, child labor, forced labor, and commercial sexual exploitation. Children were trafficked to, from, and through the country, as well as internally. Cross-border trafficking was not as common as internal trafficking.

Children were trafficked for forced labor and commercial sexual exploitation. The majority of child victims were trafficked within the country for domestic servitude, forced begging, forced labor in cattle herding, fishing and street vending, and commercial sexual exploitation. Children from Cameroon and CAR were trafficked for commercial sexual exploitation to the country's oil-producing regions. Chadian children were trafficked to Cameroon, CAR, and Nigeria for cattle herding.

Girls sold or forced into child marriages were forced by their husbands into domestic servitude and agricultural labor.

The majority of child trafficking occurred with parental consent; parents gave children to relatives or an intermediary in exchange for typically false promises of an education or apprenticeship for the child, or for cattle or a small payment for the parents.

Armed groups recruited children, sometimes forcibly. The government took some steps to eliminate the use of child soldiers in the army (see section 1.g.).

UNICEF reported that the DIS investigated cases of adults who reportedly forced children into prostitution in refugee camps. Armed bandits kidnapped children to obtain ransom in the Mayo-Kebbi Ouest Region (see section 1.b.).

There were no reported developments regarding the June 2008 case of village chiefs arrested for selling children to herders or the July 2008 report that 108 children were being held by herders in Hahimtoki village.

Police reportedly resorted to extrajudicial actions against traffickers and child labor offenders, including beating them and imposing unofficial fines.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The law prohibits discrimination against persons with disabilities, and the government enforced this prohibition. There were no laws or programs to ensure access to buildings for persons with disabilities. The government operated a few education, employment, or therapy programs for such persons. The government, in conjunction with NGOs, continued to sponsor an annual day of activities to raise awareness of the rights of persons with disabilities. The Ministry of Social Action and Family is responsible for protecting the rights of persons with disabilities.

National/Racial/Ethnic Minorities.—There are approximately 200 ethnic groups, many of which are concentrated regionally. They speak 128 distinct primary languages. Although most ethnic groups were affiliated with one of two regional and cultural traditions—Arabs and Muslims in the north, center, and east; and Christian or animist groups in the south—internal migrations in response to urbanization and desertification resulted in the integration of these groups in some areas.

Societal discrimination continued to be practiced routinely by members of virtually all ethnic groups and was evident in patterns of employment, especially across the North-South divide. The law prohibits government discrimination on the basis of ethnicity, although in practice ethnicity continued to influence government appointments and political alliances. Political parties and groups generally had readily identifiable regional or ethnic bases.

Interethnic violence continued, particularly in the east and south (see section 1.g.).

Clashes between herders and sedentary populations and other interethnic violence that often concerned land use continued to be a serious problem.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—There were no known lesbian, gay, bisexual, and transgender (LGBT) organizations. There was societal discrimination based on sexual orientation. There were no government or civil society efforts to address discrimination based on sexual orientation or gender identity.

Other Societal Violence or Discrimination.—The law provides for persons with HIV/AIDS to have the same rights as those without HIV/AIDS and obligates the government to provide information, education, and access to tests and treatment for persons with HIV/AIDS; however, societal discrimination continued to be practiced against persons living with HIV/AIDS.

Section 7. Worker Rights

a. The Right of Association.—The law allows all employees except members of the armed forces to form or join unions of their choice without excessive requirements, but the authorization of the Ministry of Interior is required. However, there were no reports that the authorization requirement was enforced. The Ministry of Interior can also order the immediate administrative dissolution of a union.

In the formal sector, more than 90 percent of employees belonged to unions; however, the great majority of workers were self-employed, nonunionized, unpaid, subsistence cultivators or herders. The government, which owned enterprises that dominated many sectors of the formal economy, remained the largest employer.

The law recognizes the right to strike but restricts the right of civil servants and employees of state enterprises to do so. Civil servants and employees of state enterprises must complete a mediation process and must notify the government before striking. Employees of several public entities deemed essential must continue to provide a certain level of services. A 2008 International Trade Union Confederation report stated that the law prolonged the period before a strike can occur, and that the definition of essential services was overly broad. The law permits imprisonment with forced labor as punishment for participation in illegal strikes, but no such punishment was imposed during the year.

During the year four Government National Radio (RNT) journalists were not paid their monthly salaries and were relocated to less prestigious positions outside the capital following their participation in a strike.

On August 19, the minister of civil service issued an order to move the head of the Civil Service Workers Union and his deputy to positions outside the capital. The union linked this decision to a March strike for salary increases and better workplace conditions. The union threatened to go on strike again if the minister did not cancel the decision to transfer. At year's end the union head and deputy had not been moved.

On October 13, Michel Barka, president of the Chad Trade Union, was followed by several vehicles, and then threatened with a gun.

b. The Right to Organize and Bargain Collectively.—The law allows unions to organize and bargain collectively, and the government protected these rights. Although there are no restrictions on collective bargaining, the law authorizes the government to intervene under certain circumstances.

There were no reports of restrictions on collective bargaining during the year.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The constitution states that persons cannot be held as slaves or in servitude, and the law prohibits forced or compulsory labor, including by children; however, forced labor, particularly forced child labor, occurred in the informal sector. There continued also to be reports of forced labor practices in the formal economy and isolated instances of local authorities demanding forced labor by both children and adults in the rural sector.

The law permits imprisonment with forced labor for participation in illegal strikes.

Children were subjected to forced labor and commercial sexual exploitation. The majority of forced child laborers were subjected to domestic servitude, forced begging, forced labor in cattle herding, fishing and street vending, or commercial sexual exploitation. Children from Cameroon and CAR were trafficked and subjected to commercial sexual exploitation in the country's oil-producing regions. Chadian children were trafficked to Cameroon, CAR, and Nigeria for forced cattle herding. Girls sold or forced into child marriages were forced by their husbands into domestic servitude and agricultural labor. Children were also recruited, sometimes forcibly, into armed groups (see section 6, Children and Trafficking in Persons).

In January local human rights groups and the media reported that a military officer abducted Ndessedibaye Neloumra and Nanalta Clement from Sarh and transferred them to the North for forced labor. They were tortured and injured before being released.

d. Prohibition of Child Labor and Minimum Age for Employment.—The labor code stipulates that the minimum age for employment is 14, except that children may work as apprentices beginning at age 13. However, the government did not enforce the law. Child labor, including forced child labor, was a serious problem. The minimum employment age is not consistent with the compulsory education age.

An estimated 20 percent of children between the ages of six and 18 worked in exploitive labor in the urban informal sector, according to a study published in 2005 by the NGO Human Rights Without Borders. Children throughout the country worked in agriculture and herding. They also were employed in the commercial sector, particularly in the capital, as street vendors, manual laborers, and helpers in small shops. Children worked as domestic servants, mainly in the capital.

A 2005 UNICEF-government survey of child domestics in N'Djamena noted that 62 percent were boys, 24 percent were between eight and 14 years of age, 68 percent were between 15 and 17, and 86 percent were illiterate. Local human rights organizations reported an increase in the number of child domestic workers during the year.

During the year a local NGO in Koumra reportedly rescued 150 children whose families had sold them to work as herders in the southern departments of Mandoul and Moyen Chari.

Children who attended certain Islamic schools were sometimes forced by their teachers to beg for food and money.

Some young girls were forced into marriages by their families and then compelled to work in their husbands' fields or homes while they were still too young to do so safely.

Government forces and rebel groups used child soldiers (see section 1.g.).

UNICEF reported that the DIS investigated cases of adults who reportedly forced children into prostitution in refugee camps.

The Office of Labor Inspection is responsible for enforcement of child labor laws and policies. As in previous years, the office reportedly had no funding to carry out field work and investigations. On August 21, the National School of Administration and Magistracy graduated its first-ever class of labor inspectors. Twenty-eight students participated in the program.

Police reportedly used extrajudicial actions against traffickers and child labor offenders, including beating them and imposing unofficial fines.

The government did not have a comprehensive plan to eliminate the worst forms of child labor; however, the government continued to work with UNICEF and NGOs to increase public awareness of child labor. In addition, the campaign to educate parents and civil society on the dangers of child labor, particularly for child herders, continued.

e. Acceptable Conditions of Work.—The labor code requires the government to set minimum wages, and the minimum wage at year's end was 28,000 CFA (\$60) per month; however, this standard was generally ignored. The minimum wage did not provide a decent standard of living for a worker and family, although wage levels were raised during the year. Nearly all private sector and state-owned firms paid at least the minimum wage, but it was largely ignored in the vast informal sector. Salary arrears remained a problem, although less so than in previous years. The law limits most employment to 39 hours per week, with overtime paid for supplementary hours. Agricultural work was limited to 2,400 hours per year, an average of 46 hours per week. All workers were entitled to an unbroken 48-hour rest period per week; however, these rights rarely were enforced.

The labor code mandates occupational health and safety standards and gives inspectors the authority to enforce them; however, these standards were generally ignored in the private sector and in the civil service.

Workers had the right to remove themselves from dangerous working conditions; however, in practice they could not leave without jeopardizing their employment. The labor code explicitly protects all workers, including foreign and illegal workers, but the protections provided were not always respected in practice.

COMOROS

The Union of the Comoros is a constitutional, multiparty republic of 748,000 citizens. The country consists of three islands—Grande Comore, Anjouan, and Moheli—and claims a fourth, Mayotte, which France governs. In 2006 citizens elected Ahmed Abdallah Mohamed Sambi as Union president in polling international observers described as generally free and fair. This was the first peaceful and democratic transfer of power in the country's history. In March 2008 the Union Army of National Development, with African Union support, launched a successful and bloodless military action resulting in the removal of former Anjouan president Mohamed Bacar, who fled the country. Bacar had ruled Anjouan by force since declaring himself the winner of an illegal election in 2007. In June 2008 Moussa Toybou was elected president of Anjouan in a generally free and fair process. Civilian authorities generally maintained effective control of the security forces.

The Union government and the three island governments generally respected the human rights of their citizens, although there were some areas of concern. Problems on all three islands included poor prison conditions; restrictions on freedom of movement, press, and religion; official corruption; discrimination against women; child abuse; and child labor.

RESPECT FOR HUMAN RIGHTS

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

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

Civil society representatives on Anjouan reported in March 2008 Nadiati Soimaddine died from injuries inflicted during torture by Mohamed Bacar's security agents. Soimaddine was accused of supporting Union president Sambi. There were no developments in the case.

b. Disappearance.—There were no reports of politically motivated disappearances. Civil society representatives reported those detained in Anjouan prior to March 2008 had been released.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution and laws prohibit such practices, and there were no reports government officials employed them. Unlike in the previous year, there were no reports of rape, torture, illegal detention, and forced exile committed by regime gendarmes in Anjouan.

The Comoros Human Rights Foundation interviewed victims of the Bacar regime and was preparing evidence to prosecute those responsible for the 2008 abuses. Most cases involved the torture of detainees. There were no other developments on any of these 2008 cases.

For example, in January 2008 Bacar's security forces arrested Mohamed Attoumane for listening to a radio program from the national radio station. Attoumane was tortured and released a day after his arrest. There were no developments in this case.

In February 2008 Bacar's forces detained and tortured Soulaïmana Bacar and several unnamed friends. Bacar, who suffered a broken foot and arm, was held incom-

municado and transferred between unknown locations before his release. There were no developments in the case.

Also in February 2008 Bacar's forces arbitrarily detained and beat Attoumane Houmadi, whom they held until his family paid for his release. There were no developments in the case.

Some persons released during the year had been held for months by Bacar regime security forces. For example, Abdallah Ahmed Ben Ali, who was arbitrarily arrested in 2007, was repeatedly tortured until his March 2008 release. There were no developments in the case.

Prison and Detention Center Conditions.—Prison conditions remained poor. Common problems included inadequate sanitation, overcrowding, inadequate medical facilities, and poor diet.

There were approximately 150 prisoners incarcerated in Moroni prison. At year's end one female prisoner was being held; no juveniles were being held. During the year there were no recorded deaths of prison inmates.

Authorities held pretrial detainees with convicted prisoners. Unlike in the previous year, there were no reports detainees on Anjouan were being held in shipping containers.

The government permitted visits by independent human rights observers. In an August 2008 visit, a Comoran human rights organization and the local Red Crescent Society stated the Union government met international standards in its detention, on Grande Comore, of officials from the Bacar regime.

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

On August 7, 10 high-ranking members of the Grande Comore island administration were arrested for resisting the attempts of national gendarmes to retake possession of offices, vehicles, and other property of the island authority. These officials have since been released.

Role of the Police and Security Apparatus.—Six separate security forces report to four different authorities. Union forces include the Army of National Development, the Gendarmerie, and the National Directorate of Territorial Safety (immigration and customs). The previously separate Anjouan gendarmerie was incorporated into the Union structure. Each of the three islands also has its own local police force under the authority of its ministry of interior.

There was continued corruption in the police force. Citizens paid bribes to evade customs regulations, avoid arrest, and to have police reports falsified. Police personnel paid bribes to receive promotions. Impunity was a problem, and there was no mechanism to investigate police abuses. Police and security forces participated in training on civil-military relations, public health, and peacekeeping operations.

Arrest Procedures and Treatment While in Detention.—The law requires warrants for arrests and provides for detainees to be held for 24 hours, although these provisions were not always respected in practice. The prosecutor must approve continued detention. A tribunal informs detainees of their rights, including the right to legal representation. The law provides for the prompt judicial determination of the legality of detention, and detainees must be promptly informed of the charges against them. In practice these rights were inconsistently respected. There is a bail system under which the individual is not permitted to leave the country. Some detainees did not get prompt access to attorneys or families. The law also requires the state to provide an attorney for indigent defendants, but this rarely occurred.

After March 2008 the Union government detained approximately 50 civilian and military officials of the Bacar regime. All but one have been released.

Pretrial detention was a problem, with approximately 20 percent of the prison population awaiting trial for extended periods for reasons including administrative delays, case backlogs, and time-consuming collection of evidence. By law pretrial detainees can be held for only four months, but this period could be extended. Some extensions lasted several months.

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary, and the government generally respected judicial independence in practice; however, judicial corruption was a problem.

The seven-member Constitutional Court includes a member appointed by the president of the Union, a member appointed by each of the two Union vice presidents, a member appointed by each of the three island government presidents, and one appointed by the president of the National Assembly. Minor disputes can be reviewed by the civilian court of first instance, but they were usually settled by village elders outside of the formal structure. The head of state appoints magistrates by decree.

Trial Procedures.—The law provides for the right to a fair trial for all citizens. Under the legal system, which incorporates French legal codes and shari'a (Islamic law), trials are open to the public and defendants are presumed innocent. Juries deliberate criminal cases, and there is an appeal process. Defendants have the right to be present, to access government-held evidence, and to consult with an attorney. The law allows defendants to question witnesses and present their own witnesses. Witnesses can also present evidence on their own behalf. In practice these rights were inconsistently respected.

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

Civil Judicial Procedures and Remedies.—There is an independent and impartial judiciary for civil matters, but formal courts had insufficient resources and were corrupt. Administrative remedies were rarely available, although citizens with influence had access to such alternatives. Court orders were inconsistently enforced.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and law prohibit such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution and law provide for freedom of speech and of the press; however, the Union government partially limited press freedom, and journalists on all three islands practiced self censorship.

Individuals could generally criticize the Union government publicly or privately without reprisal.

There is a government-supported newspaper and six independent newspapers.

No action was taken against Anjouan gendarmes involved in the 2007 arrest and beating of four journalists or the 2007 arrest and detention of radio reporter Elarifou Minihadji of the Comoran Foundation for Human Rights. Minihadji was released after one week. The four journalists were released when Anjouan was liberated in March 2008.

There is independent radio on all three islands. One government radio station operated on a regular schedule. Small community radio stations operated without government interference. Residents also received Mayotte Radio and French television.

Internet Freedom.—There were no government restrictions on access to the Internet or reports the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics for 2008, approximately 3.48 percent of the country's inhabitants used the Internet.

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

b. Freedom of Peaceful Assembly and Association.—*Freedom of Assembly.*—The constitution and law provide for freedom of assembly; however, the government did not always respect this right. Security forces wielding batons dispersed protesters after the referendum on Mayotte (March 29), before and after the referendum on the constitution (May 17), and after the announcement of election results on Anjouan (December 23).

Freedom of Association.—The constitution and law provide for freedom of association, and the Union government and the three island governments generally respected this right.

c. Freedom of Religion.—The constitution provides for freedom of religion, but the penal code prohibits proselytizing for religions other than Islam. The referendum of May 17, which modified the constitution, also states "Islam is the state religion," but in practice there was no change in the legal status of religious freedom. Prosecutions for proselytizing are rare and have not resulted in convictions in recent years. Although the government allows organized religious groups to establish places of worship, train clergy to serve believers, and assemble for peaceful religious activities, most non-Muslim citizens did not openly practice their faith for fear of potential legal repercussions for proselytizing.

Societal Abuses and Discrimination.—Christians, who constitute less than 1 percent of the population, continued to experience societal discrimination and intimidation. Societal pressure effectively restricted the use of the country's three churches to noncitizens. Family and community members harassed those who joined non-Muslim faiths.

There was no known Jewish population, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution and law provide for freedom of movement within the country and foreign travel, and the government generally respected these rights in practice. No specific constitutional provisions deal with emigration and repatriation.

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection to internally displaced persons, refugees, asylum seekers, and stateless persons.

The law does not prohibit forced exile, but the government did not use it.

Protection of Refugees.—The country is not party to the 1951 UN Convention relating to the Status of Refugees, its 1967 Protocol relating to the Status of Refugees, or the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. The law does not provide for the granting of asylum or refugee status in accordance with these conventions, and the government has not established a system for providing protection to refugees. In practice, although very few refugees sought asylum, the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

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

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

Elections and Political Participation.—The constitution provides for a “rotating” Union presidency in which each island takes a turn at holding a primary for presidential candidates every four years. In 2006 the turn passed to Anjouan; all 12 presidential candidates had to be natives of Anjouan to run in the primary. From the 12, Anjouan voters selected three to run in the national election, which Ahmed Abdallah Mohamed Sambi won. International observers considered the elections free and fair. The 2006 inauguration of President Sambi was the first peaceful and democratic transfer of power in the country’s history. The constitution thus restricts, by island, those eligible to run for the presidency. But aside from the rotation principle, anyone is free to stand for election.

Grande Comore and Moheli held first- and second-round island president (governor) elections in 2007; both elections were considered generally free and fair. Anjouan held its island president (governor) elections in June 2008; these were also considered generally free and fair.

On May 17, a national referendum was held on proposed modifications to the current constitutional system. The proposed changes would significantly affect the titles, powers, and terms of various office holders, including President Sambi (who would see his term of office extended by one year). The referendum took place without incident, but it was boycotted by opposition political parties who objected to the proposed changes. The referendum was approved by 94 percent of voters, but turnout was only 52 percent.

On December 6 and December 20, legislative elections were held for both the Union national assembly (parliament) and the three island assemblies. These elections were also considered generally free and fair.

More than 20 political parties operated without restriction and openly criticized the Union government.

There was one woman in the 33-member national assembly. No minorities held national assembly seats or Union or island ministerial posts.

Section 4. Official Corruption and Government Transparency

Corruption was a serious problem. The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials often engaged in corrupt practices with impunity. Resident diplomatic, UN, and humanitarian agency workers reported petty corruption was commonplace at all levels of the civil service despite the government’s anticorruption campaign. Private sector operators reported corruption and a lack of transparency, and the World Bank’s 2009 Worldwide Governance Indicators also reflected that corruption was a serious issue.

The Union Ministry of Justice is responsible for combating corruption; however, the government did not prosecute or discipline officials charged with corruption.

Officials were not subject to financial disclosure laws.

There are no laws providing for public access to government information. Those who have personal or working relationships with government officials can generally access government information, but members of the general public cannot.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

One domestic and some international nongovernmental organizations (NGOs) generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.

The government cooperated with international governmental organizations and permitted visits by UN representatives and other organizations. No outside visits were made during the year, but domestic human rights organizations met regularly with locally based UN personnel. No reports or criticisms were issued.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, sex, disability, language, or social status; however, there was discrimination against women.

Women.—Rape is illegal, punishable by imprisonment of five to 10 years or up to 15 years if the victim is younger than 15 years of age. However, the government did not enforce the laws on rape effectively. The law does not specifically address spousal rape, which is a problem. Statistics are scarce since many of these situations are settled within families or by village elders without recourse to the formal court system. Authorities believe the problem is more widespread than statistics indicate, and overall sexual violence is a problem. For example, more than half of the inmates in Moroni prison are held for crimes of sexual aggression.

The law prohibits domestic violence, but the government did not take any action to combat violence against women. Although women can seek protection through the courts in such cases, extended family or village elders customarily addressed such problems.

Domestic violence cases rarely, if ever, enter the formal court system.

Prostitution is illegal and was not openly practiced except at a few hotels frequented by foreigners. Arrests for prostitution were rare.

Sexual harassment is illegal and punishable by up to 10 years' imprisonment. Although rarely reported due to societal pressure, such harassment was nevertheless a common problem, and the government did not effectively enforce penalties against it.

Couples and individuals are free to choose the number and spacing of their children. The contraceptive prevalence rate is approximately 15 percent among women of childbearing age. Existing health resources (including personnel, facilities, equipment, and drugs) are inadequate, making it difficult for the government to respond to the health needs of the population. There is a general lack of adolescent reproductive health information and services, leading to unwanted pregnancies and increased morbidity and mortality among adolescent girls. The country recently developed a national strategy for reproductive health but requires additional funding to implement it.

The law provides for equality of persons, and in general inheritance and property rights practices do not discriminate against women. Men retained the dominant role in society, although the matriarchal tradition afforded women some rights, especially in landholding. Societal discrimination against women was most apparent in rural areas where women were mostly limited to farming and child-rearing duties, with fewer opportunities for education and wage employment. In urban areas, growing numbers of women were employed and generally earned wages comparable to those of men engaged in similar work; however, few women held positions of responsibility in business. The law does not require women to wear head coverings, but many women faced societal pressure to do so.

Children.—Any child having at least one Comoran parent is considered a citizen, regardless of where the birth takes place. Any child born in the country is considered a citizen unless both parents are foreigners, although these children can apply for citizenship if they have lived in the country for at least five years at the time of their application. It is estimated approximately 15 percent of children are not officially registered at birth, although many of these situations are regularized subsequently. No public services are withheld from children who are not officially registered.

The government did not take specific action to protect or promote children's welfare and did not enforce legal provisions that address the rights and welfare of children.

Education is compulsory until the age of 12, but not free. Teacher strikes over nonpayment of salaries interrupted school several times during the year. Boys generally had greater access to schools than girls.

Although there are no official statistics on child abuse, it was common and often occurred when impoverished families sent their children to work for wealthier families. A 2002 UN Children's Fund study found that child abuse, including sexual abuse, was widespread and often occurred at home. There also were reports teachers raped students.

Child prostitution and child pornography are illegal. The law considers unmarried children under the age of 18 to be minors, and they are protected legally from sexual exploitation, prostitution, and pornography. There were no statistics regarding these matters, but they were not considered serious problems. The age of consent is 13. Child prostitution is punishable by a prison term of from two to five years and a fine of between 150,000 and 2,000,000 Comoran francs (\$462 and \$6,154).

Trafficking in Persons.—The constitution and laws do not prohibit trafficking in persons; however, there were no reports persons were trafficked to, from, through, or within the country.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The constitution and laws do not prohibit discrimination in employment and public services or mandate access to buildings for persons with disabilities.

HANDICOM, the country's center for persons with disabilities on Grande Comore, was run by a local NGO called Chiwe, or "pillar." The center imported wheelchairs and prostheses.

There is no restriction on the right of persons with disabilities to participate in civic affairs.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Homosexual acts are illegal. They can be punished by up to five years' imprisonment and a fine of 50,000 to 1,000,000 Comoran francs (\$154 to \$3,077). However, no case of this nature has come before the courts. No public debate on the issue is held, and persons targeted for sexual orientation or gender identity did not publicly discuss their sexual orientation due to societal pressure. There are no lesbian, gay, bisexual, and transgender (LGBT) organizations in the country.

Other Societal Violence or Discrimination.—There were no reports of societal violence or discrimination against persons with HIV/AIDS.

Section 7. Worker Rights

a. The Right of Association.—The law allows workers to form and join independent unions of their choice without previous authorization or excessive requirements, and many of those in the wage labor force did so in practice. Teachers and other civil servants, taxi drivers, and dockworkers were unionized. The law allows unions to conduct their activities without government interference and provides for the right to strike, and workers exercised this right in practice.

There are no laws protecting strikers from retribution, but there were no reported instances of retribution.

The labor code, which was rarely enforced, does not include a system for resolving labor disputes. Common problems included failure to pay salaries regularly or on time, mostly in the government sector, and abusive dismissal practices.

b. The Right to Organize and Bargain Collectively.—Unions have the right to bargain collectively, although employers set wages in the small private sector, and the government, especially the ministries of finance and labor, set them in the larger public sector.

The law does not prohibit antiunion discrimination by employers in hiring practices or other employment functions. There were no examples of antiunion discrimination during the year. No workers suffered retribution because of union activity.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor by adults with certain exceptions for obligatory military service, community service, and accidents, fires, and disasters. The Union's civil protection unit may oblige persons to respond to disasters if it is unable to obtain sufficient voluntary assistance; however, this has never occurred. There are no specific prohibitions against forced or compulsory child labor, and it occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—Laws exist to protect children from exploitation in the workplace, but the government did not enforce such laws. There were no laws to prohibit forced or compulsory child labor,

and there were reports such practices occurred. The law establishes 15 as the minimum age for employment. Children worked in subsistence farming, fishing, in the informal sector selling goods along roadsides, and extracting and selling marine sand. Some children worked under forced labor conditions, particularly in domestic service, roadside and market selling, and agriculture. In addition, some Koranic schools arranged for poor students to receive lessons in exchange for labor, which sometimes was forced.

Some families placed their children in the homes of wealthier families where they worked in exchange for food, shelter, or educational opportunities. Many children were not paid for their work. The Ministry of Labor is responsible for enforcing child labor laws, but it did not actively or effectively do so. The government took no action to prevent child labor or to remove children from such labor.

e. Acceptable Conditions of Work.—A 2003 ministerial decree set the minimum wage at 30,000 Comoran francs per month (\$92). Although the Union and local governments do not enforce a minimum wage, unions have adequate authority to negotiate de facto minimum wage rates for different skill levels. These provisions applied to all workers, regardless of sector or country of origin. In practice unions enforce this de facto minimum wage via their ability to strike against employers. Despite strikes and other protests, the Union government was unable to pay government employees, including low-level officials, teachers, and medical workers, for several months due to budgetary difficulties.

The law specifies a work week of 37 1/2 hours, one day off per week, and one month of paid vacation per year. According to the law, workers receive time and a half for overtime. These laws, like many others, were not enforced. There was no prohibition on excessive compulsory overtime; however, electricity shortages prevented overtime work in most businesses. Employers, particularly the government, were often remiss in paying salaries.

No safety or health standards had been established for work sites. Workers generally could not remove themselves from an unsafe or unhealthful situation without risking loss of employment.

DEMOCRATIC REPUBLIC OF THE CONGO

The Democratic Republic of the Congo (DRC) is a nominally centralized republic with a population of approximately 68 million. The president and the lower house of parliament (National Assembly) are popularly elected; the members of the upper house (the Senate) are chosen by provincial assemblies. Multiparty presidential and National Assembly elections in 2006 were judged to be credible, despite some irregularities, while indirect elections for senators in 2007 were marred by allegations of vote buying.

Internal conflict in the eastern provinces of North and South Kivu, driven to a large degree by the illegal exploitation of natural resources, as well as a separate conflict in the Haut Uele and Bas Uele districts of Orientale Province, in the northeast, had an extremely negative effect on security and human rights during the year. An interethnic tribal conflict in Equateur Province increased both the refugee and internally displaced persons (IDP) populations and further highlighted the fragile security situation.

At year's end, government control over many regions remained weak, particularly in North and South Kivu provinces. Civilian authorities generally did not maintain effective control of the security forces. Military authorities sometimes did not maintain effective control of the security forces. In instances where elements of the security forces committed abuses, it was often difficult to determine whether they were following orders or acting independently, particularly in the east. There were extremely few reports of investigative, disciplinary, or legal action by military or civilian authorities following the commission of such abuses by security forces.

In all areas of the country, the government's human rights record remained poor, and security forces continued to act with impunity throughout the year, committing many serious abuses, including unlawful killings, disappearances, torture, and rape. Security forces also engaged in arbitrary arrests and detention. Severe and life-threatening conditions in prison and detention facilities, prolonged pretrial detention, lack of an independent and effective judiciary, and arbitrary interference with privacy, family, and home also remained serious problems. Security forces retained and recruited child soldiers and compelled forced labor by civilians. Members of the security forces also continued to abuse and threaten journalists, contributing to a decline in freedom of the press. Government corruption remained pervasive. Security forces at times beat or threatened local human rights advocates and obstructed

or threatened UN human rights investigators. Discrimination against women and ethnic minorities, trafficking in persons, child labor, and lack of protection of workers' rights continued to be pervasive throughout the country. Enslavement of Pygmies occurred.

Armed groups continued to commit numerous, serious abuses—some of which may have constituted war crimes—including unlawful killings, disappearances, and torture. They also recruited and retained child soldiers, compelled forced labor, and committed widespread crimes of sexual violence.

In January the governments of the DRC and Rwanda accelerated efforts to achieve a rapprochement, which they had initiated in late 2008. The two governments agreed to conduct joint military operations in North Kivu Province, in eastern DRC, to pursue, disarm, and decrease the capacity of the Democratic Forces for the Liberation of Rwanda (FDLR), elements of extremist Rwandan Hutus whose leaders were implicated in the 1994 Rwandan genocide. The military operations, which were called *Umoja Wetu* (Swahili for "Our Unity"), began on January 20. Days later, Rwandan authorities arrested General Laurent Nkunda, leader of the Tutsi-led Congolese rebel group, the National Congress for the Defense of the People (CNDP). Rwandan forces officially withdrew from the DRC on February 25. Concurrently, the CNDP signed a cessation of hostilities agreement with the government, agreeing to integrate its forces into the Congolese Armed Forces (FARDC). According to a December report by the international nongovernmental organization (NGO) Human Rights Watch (HRW), the joint DRC-Rwandan operation resulted in civilian deaths.

On March 23, the government signed separate peace agreements with the CNDP, the North Kivu armed groups, and the South Kivu armed groups. The rebel groups agreed to transform their movements from military to political in nature, while the government promised to work toward integrating rebel soldiers and officials into the FARDC, national police, and national and local political and administrative units. The FARDC, with support from the UN peacekeeping mission in the DRC (MONUC), offered ex-combatants the opportunity to undergo "accelerated integration" into the national army, allowing for an expeditious transition of rebel forces into the national army without training or other administrative controls. Among other commitments, both the government and the rebel groups agreed to facilitate the return of displaced persons and refugees to their places of origin. As part of the peace agreements, the parliament passed, and the president signed, an amnesty law that pardoned former members of armed groups for crimes committed in the east during the fighting, other than crimes of genocide, crimes against humanity, and war crimes.

The FARDC, with logistical support from MONUC, launched Operation Kimia II, a military operation against the FDLR in North and South Kivu, on March 2 and July 10, respectively. During the year Kimia II facilitated the disarmament and repatriation of 1,522 FDLR combatants and 2,187 FDLR dependents, the weakening of the FDLR military structure, and improved relations between Rwanda and the DRC. MONUC estimated that 1,114 FDLR members were killed during the operation, while there were 1,714 civilian casualties in the Kivus. The rapid integration process, from January to April, exacerbated the FARDC's problems concerning discipline, pay, and command and control. In the context of Kimia II, the FARDC and all armed groups continued to perpetrate human rights abuses, with civilians frequently targeted in attacks. The resulting humanitarian cost resulted in hundreds of thousands of newly displaced persons in the region, an increase in already rampant sexual violence, and a deteriorating human rights situation.

The joint DRC-Uganda military operations against the Lord's Resistance Army (LRA), which began in December 2008 in the Haut Uele and Bas Uele districts of Orientale, continued throughout the year. The operations succeeded in dislodging the LRA from its base camp, significantly weakening the group's command and control structure. Although LRA retribution against civilians increased in the early stages of the operation, the level and intensity of LRA exactions diminished during the course of the year, as the LRA scattered in smaller groups with many members fleeing to neighboring countries.

On December 23, the UN Security Council extended MONUC's mandate for five months, with the intention to further extend the mandate following a comprehensive strategic review of MONUC's operations, and underscored its commitment that the protection of civilians would continue to be MONUC's principle and primary focus. Kimia II operations officially ended on December 31.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—Unlike in the previous year, there were no reports that the government or its agents committed politically motivated killings.

In the east security forces summarily executed civilians and killed civilians during clashes with illegal armed groups (see section 1.g.).

There were several occasions during the year when members of security forces arbitrarily and summarily killed civilians, sometimes during apprehension or while holding them in custody, sometimes during protests, and often for failing to surrender their possessions, submit to rape, or perform personal services. In the cases below, which do not comprise an exhaustive list of such killings during the year, authorities neither investigated nor prosecuted any of the perpetrators.

For example, according to the United Nations Joint Human Rights Office (UNJHRO) in the country, on January 1, a Congolese National Police (PNC) officer in Kolwezi, Katanga, shot and killed a young man in a crowd that was protesting the prohibition of fireworks on New Year's Day. In response, the angry crowd brought the body to the local police station, broke into the station, beat a local policeman to death, and looted neighboring shops.

According to the UNJHRO, on January 9, two Directorate General of Migration (DGM) agents and two PNC officers beat a Tanzanian man to death in Lubumbashi, Katanga, following his arrest for allegedly carrying false identity documents.

According to the UNJHRO, a woman in Njingala, North Kivu, died from injuries she sustained on April 10 during a gang rape by 10 FARDC soldiers who invaded her home.

FARDC intelligence officers tortured a man to death on April 29 in Kamandi Lac, North Kivu, according to the UNJHRO. The victim reportedly had refused to become involved in an illicit business activity.

Authorities took no further action on the January 2008 killing of a civilian in Bulukutu, Equateur, by a PNC officer, or the February 2008 killing of an artisanal miner in Katanga by a police officer attached to the Provincial Mining Office in Kalukalanga.

In October, at the invitation of the government, UN special rapporteur on extrajudicial, summary, or arbitrary executions (UNSRESAE) Philip Alston visited Bas-Congo Province, in the west, to investigate the deaths of at least 205 members of the Bundu Dia Kongo (BDK), a political-religious group seeking greater provincial autonomy during two demonstrations in February 2008 and 2007. Investigative reports by the UNJHRO in 2008 and 2007 concluded that police used excessive force in both incidents and that in 2008 police committed arbitrary executions and raped local residents. Although the government, rejecting these conclusions, committed in 2008 to conduct its own investigation, Alston found that authorities had not held to account any of the security force members responsible for the killings. During Alston's visit, the governor ordered the mayor of Kisantu to prevent him from interviewing witnesses or holding any meetings; upon Alston's departure, police arrested the person who had tried to arrange meetings for him, which required Alston to return to Kisantu to secure his release. Alston lodged a formal complaint with the government.

There were no developments in the March 2008 case of a FARDC soldier who shot and killed a civilian in Mahagi Port, Orientale.

There were no reports authorities apprehended the police chief in Sota, Ituri District (Orientale), who escaped arrest in January 2007 after he and his assistant subjected a detainee to cruel and inhuman treatment, resulting in his death. Attempts to determine whether the assistant remained in detention or had been tried were unsuccessful.

Authorities took no action against a navy corporal for the 2007 killing of a university student in Goma, North Kivu.

Authorities took no action against those responsible for summarily executing and otherwise killing approximately 300 persons in 2007 during armed confrontations in Kinshasa between forces loyal to President Kabila and rival forces loyal to former vice president Jean-Pierre Bemba.

Local human rights NGOs reported that a police officer in Mabikwa, Maniema Province, who beat a man to death in 2007 before going into hiding, had returned, but authorities took no action against him.

No action was taken against FARDC soldiers who tortured to death two suspects at Uvira Central Prison in South Kivu in 2007 or against Mobile Intervention Group (GMI) officers for the 2007 killing of an inmate at Buluwo Prison in Katanga. However, according to a local human rights NGO, Volunteer Office in the Service of

Children and Health (BVES), local authorities announced an investigation in the Uvira case; no additional information was available.

During the year the human rights NGO African Association for the Defense of Human Rights (ASADHO) stated that it did not attempt to conduct further field investigations of a 2004 massacre of 73 residents of Kilwa, Katanga, because Katangan government officials prevented the NGO, as well as the victims' foreign attorneys, from visiting Kilwa in 2008. There were no further legal developments regarding the 2007 acquittal by a military court of several FARDC soldiers and three Anvil Mining employees accused of involvement in the Kilwa massacre. In 2008 the Lubumbashi Military Court of Appeal rejected legal motions by victims' relatives challenging the acquittals.

There were no reports of authorities taking action in the 2007 killing of a police officer by civilians in Bukavu, South Kivu.

Illegal armed groups, including rebel groups and community militias, committed unlawful killings during the year (see section 1.g.).

b. Disappearance.—There were reports of disappearances caused by government forces. Authorities often refused to acknowledge the detention of suspects, and in some cases they detained suspects in secret detention facilities (see sections 1.c. and 1.d.).

According to a report released in April by ASADHO, security forces continued to use forced disappearances to repress individuals. ASADHO noted the disappearance of 16 persons, including students, police officers, and soldiers, following their initial arrest earlier in the year. Their whereabouts remained unknown at year's end.

In February the UN Working Group on Enforced or Involuntary Disappearances (UNWGEID) reported to the UN Human Rights Council (UNHRC) that, as of November 2008, there were 43 unsettled cases of forced or involuntary disappearance that had been reported to the UNWGEID, although none of them originated during the year. Underlining that an enforced disappearance was "a continuing offense for as long as the fate or whereabouts of the victim remains unclarified," the UNWGEID stated that, as in 2008, the government did not respond to UN inquiries about the cases. There were no reports of government efforts to investigate disappearances and abductions, including those in which security force members were accused of involvement.

There was no information about the whereabouts of three lawyers in Kinshasa, who were abducted by three armed men in 2007 and allegedly detained by the National Intelligence Agency (ANR).

Armed groups operating outside government control kidnapped numerous persons, generally for forced labor, military service, or sexual services. Many of the victims disappeared (see section 1.g.).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law does not specifically criminalize torture, and during the year there were many credible reports by informed sources that security services tortured civilians, particularly detainees and prisoners, and employed other types of cruel, inhuman, and degrading punishment. Most cases of torture were perpetrated by members of the police, the ANR, and the FARDC, according to credible sources. There were very few reports of government authorities taking action against members of security forces responsible for these acts.

The UNJHRO reported several cases of torture and cruel, inhuman, and degrading treatment. For example, on January 12, ANR agents in Kabimba, Katanga arrested a man accused of possession of stolen goods. The agents severely beat him and left him bound and exposed to the sun for five hours before transferring him to a detention cell and denying him food and water for 48 hours. Authorities had taken no action against the agents by year's end.

On February 14, several FARDC soldiers from the 2nd Integrated Brigade severely beat and used bayonets to stab two women in Butembo, North Kivu, during a break-in at the women's home. Authorities had taken no action by year's end.

On February 23, five PNC officers in Kaleba, Katanga, tied a man to a post, exposed him to the elements for two days, and then severely beat him to extort 180,000 Congolese francs (\$200). According to the victim, the local PNC commander routinely ordered the torture of civilians to extort money. Authorities had not taken any action against the police officers or their commander as of year's end.

According to the local NGO Voice of the Voiceless for Human Rights, three Republican Guard (GR) soldiers named Vandome, Jean-Paul, and Mapendo hung two civilians from a tree the night of May 17 in Kahungula, Bandundu, and severely beat them until the next morning while trying to find diamonds that the men had swallowed. They were released after one week. Authorities had not taken any action against the soldiers as of year's end.

On June 16, a detainee in Bena Mpiana, Kasai Oriental, died in her prison cell following severe beatings by PNC officers who accused her of “illegally wearing policeman shoes.” Authorities had not taken any action against the officers as of year’s end.

On June 26, the Military Tribunal of Lubumbashi sentenced the captain of the local GR contingent, Bebe Kibawa, a cousin of President Kabila, to five years in prison for multiple crimes, including arbitrary arrests, illegal detention, kidnapping followed by torture, rape, and sexual mutilation.

Authorities took no action against two FARDC soldiers in Kalemie, Katanga, who beat and robbed a civilian in January 2008.

Authorities ordered an investigation of five FARDC soldiers who severely beat a civilian in Mbuji-Mayi, Kasai Oriental, in January 2008 for resisting their efforts to steal his motorbike. As of year’s end, no investigation had been opened.

According to the local human rights NGO Young Network in the World for Peace, other than reassigning them to different posts, authorities took no action against seven PNC officers in Bena-Leka, Kasai Occidental, under the command of Tshipamba Nzolo, who arrested a civilian and subjected him to cruel, inhuman, and degrading treatment in January 2008 because he had failed to install hygienic facilities in his home, as ordered by local authorities.

Authorities took no action against GMI officers in Mbuji-Mayi, Kasai Oriental, who arrested and tortured a police officer in March 2008.

Authorities took no action against ANR agents who arrested a theft suspect in Beni, North Kivu, in 2007 and, according to MONUC, beat the victim with sticks, including on his genitals.

Although a police commander arrested one of his subordinates and detained him for a week for the abuse in 2007 of a theft suspect in Mbuji-Mayi, Kasai Oriental, authorities took no further action against him.

Police took no action against members of security forces who, according to informed sources, committed the following acts of torture in 2007: the torture of a judicial investigator by authorities in Orientale (see section 1.d.); the daily whipping of a man for three months on the orders of a FARDC general in Kinshasa following a personal business dispute; and the torture of seven suspected gang members, one of whom died from his injuries, by the GMI in the Bakwa Bowa police station in Kasai Oriental.

On several occasions during the year, police beat and arrested journalists who wrote or broadcast material they did not like (see section 2.a.).

There were continuing reports, including many from the UNJHRO, of rape of civilians by members of the security forces and at least one government official, both in the context of the conflict in the east (see section 1.g.) and elsewhere. For example, on March 20, the head of the office of the Ministry of Urban Planning and Housing in Bulungu, Bandundu, raped a 13-year-old girl in his office. The public prosecutor subsequently had the official arrested and transferred to a detention cell, pending the outcome of an investigation. No additional information was available.

At year’s end, no additional information was available on a FARDC soldier in Rwindi, North Kivu, whom military authorities arrested and detained after he allegedly raped a three-year-old girl in February 2008.

In March 2008 a FARDC lieutenant in Gemena, Equateur, abducted a 14-year-old girl, took her to his house, and repeatedly raped her over four days. The Office of the Military Prosecutor subsequently arrested him. However, according to the Council of the Equateur Women’s Collective (CCFE), the prosecutor released him without charge.

Authorities took no action against the police officers, who in May 2008 in Ngele, Equateur, raped 13 women and six girls, subjected male residents of the village to cruel, inhumane, and degrading treatment, and pillaged the entire village. According to the CCFE, the public prosecutor cited lack of funds for pursuing the case.

Authorities took no action during the year against two FARDC soldiers of the 6th Integrated Brigade who in 2007 looted several houses near Jiba, Ituri District, Orientale, raped four women, and forced 10 villagers to carry looted goods to their camp near Bule. Authorities arrested the two perpetrators in 2008 but subsequently released them.

Authorities took no known action against members of security forces responsible for the following rapes committed in 2007: the September rape of five women and three girls in Yanonge, Orientale, by PNC officers reportedly acting on orders from their commander; and the November gang rape of a woman in Bongondjo, Equateur, by five FARDC soldiers.

There was no additional information on the investigation by a mobile court, which continued at the end of 2008, of the 2006 rape of 60 women and girls in Belongo, Equateur, but had not reached a verdict at year’s end.

Armed groups committed sexual violence and other types of abuses against civilians during the year (see section 1.g.).

Some church leaders beat, whipped, and starved children accused of witchcraft (see section 6).

Prison and Detention Center Conditions.—Conditions in most prisons remained severe and life-threatening. The UN high commissioner for human rights (UNHCHR), Navi Pillay, reported that, between March 2008 and March 2009, at least 65 prisoners died in prisons and concluded that confinement in a Congolese prison in itself often amounted to cruel, inhumane, or degrading treatment.

In June a detainee died in her prison cell as a result of severe beatings (see section 1.a.).

On June 20, during an attempted prison escape and subsequent riot at the Central Prison in Goma, North Kivu, 24 military detainees raped 23 women prisoners. PNC officers shot and killed one perpetrator. At year's end, the other 23 perpetrators were awaiting transfer to other prisons. UN secretary-general Ban Ki-moon condemned the incident, describing it as "a grim example of both the prison conditions and the level of sexual violence that plagues the DRC." Following the incident, MONUC officials asked the government to urgently improve prison conditions and enhance security in prisons, particularly to protect women inmates from sexual violence and "to avoid a repeat of the [Goma prison] tragedy."

In all prisons except the Kinshasa Penitentiary and Reeducation Center (CPRK), the government had not provided food for many years; prisoners' friends and families provided the only available food and necessities. Malnutrition was widespread. Some prisoners starved to death. Prison staff often forced family members of prisoners to pay bribes for the right to bring food to prisoners. According to ASADHO's April report, Rule of Law Put to the Test, medical equipment and medicines were absent in virtually all the prisons and detention centers. Deaths of detainees were common due to deplorable living conditions, malnutrition, and lack of medical care.

During the year many prisoners died due to neglect, often from malnutrition or illness. For example, the UNJHRO reported in March that over a two-month period several prisoners died from malnutrition or dysentery in the Bunia Central Prison. Health care and medical attention remained grossly inadequate, and infectious diseases rampant. In rare cases, prison doctors provided care; however, they often lacked medicines and supplies. According to a nurse at the prison, many prisoners were in desperate need of a transfer to the hospital for medical care but were often denied. A local NGO, Me Lonjiringa, reported in July that the physical and hygienic conditions of Bunia prison were so bad that being detained there was "a death sentence." The UNJHRO reported in July that prisoners were dying in Bunia prison, including from malnutrition and tuberculosis.

The suffering of prisoners often led to desperate escape attempts. For example, the UNJHRO reported that in June there were three major escapes from Congolese prisons: on June 1, 39 prisoners escaped during a mutiny in Aru prison; on June 13, 11 prisoners escaped from the commander's prison cell in Mbandaka; and on June 14, 11 prisoners escaped from Bukavu prison. The UNJHRO reported that the prisoners recognized the fact that many of them would die in detention from starvation. In addition, on November 3-4, the Central Jail in Uvira, South Kivu, was set on fire by prisoners attempting to escape. Three prisoners were killed and five were injured by FARDC troops. On November 5, 90 inmates in Kindu, Maniema Province, escaped after burning all the prison files. Two were killed during the attempt, and those who remained in the prison cited starvation and lack of water for three days as the reasons for the escape.

Calling prison conditions one of the major human rights crises in the country, the UNJHRO recommended that the government create prison farms to ensure food supply for the inmates and generate revenue to procure basic medicines.

The penal system continued to suffer from severe underfunding, and most prisons suffered from overcrowding, poor maintenance, and a lack of sanitation facilities. Temporary holding cells in some prisons were extremely small for the number of prisoners they held. Many had no windows, lights, electricity, running water, or toilet facilities. During the year the UN secretary-general reported that prison populations exceeded capacity by 600 percent and expressed concern about lack of food and health care, outdated prison laws and regulations, and severe shortcomings in infrastructure and training for prison guards.

According to UNHCHR Pillay, almost 80 percent of inmates were pretrial detainees. Prison records remained grossly inadequate, and authorities kept individuals in prison even after their sentences had been served. In October the UN special rapporteur on extrajudicial killings noted that the number of prisoners in the country remained unknown. In addition, he concluded that "in essence, the prison system seems to be a depository for the enemies of the state and for those too poor

to buy their way out of the justice system. The abominable conditions, together with corruption and minimal state control, mean that escapes are common, thus adding further to impunity.”

In their March report to the UNHRC, a group of seven UN special rapporteurs and representatives also underlined the link between impunity and the prison system, concluding the following: “The disastrous state of the prison system, perhaps the weakest link in the justice chain, facilitates escapes of suspects and convicts, including high profile offenders who sometimes ‘escape’ with the connivance of the authorities. For this reason, but also in light of the generally appalling prison conditions, penitentiary reform is an absolute necessity.” The group recommended that the government and its technical assistance partners make it a priority to implement the new Strategic Plan on Prison Reform and Training, developed by the Ministry of Justice and MONUC. In 2007 the UNHRC’s independent expert on human rights in the DRC recommended that the parliament adopt a law to reform the prison system. However, neither the government nor the parliament had responded.

Larger prisons sometimes had separate facilities for women and juveniles, but others generally did not. Male prisoners raped other prisoners, including men, women, and children. Citing the prison rape cases that it had registered during the year, ASADHO reported in June that “women are frequently raped” and that prison rapes “are sometimes organized in cahoots with prison authorities.” ASADHO also noted that men, especially new inmates, were sodomized by prison gangs.

Prison officials held pretrial detainees together with convicted prisoners and treated both groups the same. They generally held individuals detained on state security grounds in special sections. Government security services often clandestinely transferred such prisoners to secret prisons. Civilian and military prisons and detention facilities held both soldiers and civilians.

The local NGO Christian Action for the Abolition of Torture (ACAT) reported in June that there were 57 children being detained in the Bukavu Central Prison. ACAT protested the inclusion of the children with the adults, citing the children’s vulnerability and several cases of torture.

According to ASADHO, sleeping arrangements in prisons and detention centers were hierarchical and corrupt. Due to overcrowding, the best sleeping spots went to those who were able to pay. Those at the bottom of the hierarchy had to sleep on cement floors or outside in the courtyards.

While evaluating the country’s prison system in July, Dimitri Titov, the UN assistant secretary for the rule of law and security institutions, visited the prison in Goma, North Kivu, where he found a prison facility built for 150 prisoners housing 850, 650 of whom had not been tried yet. There was no separation of men, women, and children or of civilian and military detainees, which Titov called unacceptable. Titov said overcrowding was so great in the dilapidated prison that inmates slept in hallways and next to septic tanks, facilitating the spread of disease in what he called inhumane conditions. Noting that he had toured numerous prisons in post-conflict African countries, he deemed the prison in Goma “the most terrible I’ve ever seen.” Titov also visited the prison in Bunia, Orientale, where he found the prison population exceeded the facility’s capacity by 250 percent. While underlining efforts by donor countries to improve prison conditions in the country, he urged the government to match those efforts.

According to MONUC, fewer than 90 of the country’s 230 prisons actually held prisoners; while there were no reports of the government officially closing prisons during the year, dozens of prisons that had not functioned for years remained closed. In some cases, security personnel who were detained or convicted of serious crimes were released from prison by military associates or by bribing unpaid guards. Most prisons were dilapidated or seriously neglected. Prisoners routinely escaped from prisons in all provinces.

Even harsher conditions prevailed in small detention centers, which were extremely overcrowded, had no toilets, mattresses, or medical care, and which provided detainees with insufficient amounts of light, air, and water. Originally intended to house short-term detainees, they were often used for lengthy incarceration. They generally operated without dedicated funding and with minimal regulation or oversight. Informed sources stated that detention center authorities often arbitrarily beat or tortured detainees. Guards frequently extorted bribes from family members and NGOs for permission to visit detainees or provide food and other necessities.

Despite President Kabila’s 2006 decision to close illegal jails operated by the military or other security forces, there were no reports of illegal jails being closed during the year. According to MONUC, the security services, particularly the intelligence services and the GR, continued to operate numerous illegal detention facilities char-

acterized by harsh and life-threatening conditions. Authorities routinely denied family members, friends, and lawyers access to these illegal facilities.

Authorities took no action against ANR agents who tortured six inmates in April 2008 in Musenze Central Prison in Goma, North Kivu.

Authorities took no action against two ANR agents in Bishile, Katanga Province, who in 2007 arbitrarily arrested, detained, and subjected a suspect to cruel, inhuman, and degrading treatment.

The law provides that minors may be detained only as a last resort; however, in part due to the absence of juvenile justice or education centers, authorities commonly detained minors. Many children endured pretrial detention without seeing a judge, lawyer, or social worker; for orphaned children, pretrial detention often continued for months or years. In February the UN Committee on the Rights of the Child (UNCRC) noted that the child protection code, promulgated in January, provides for juvenile courts to become operational by 2011. However, the UNCRC expressed concern over the way in which the justice system continued to handle juveniles, and it recommended that the government swiftly establish a juvenile justice system, support it with adequate resources, and ensure that all professionals working with children receive appropriate training in children's rights.

In general, the government allowed the International Committee of the Red Cross (ICRC), MONUC, and some NGOs access to all official detention facilities; however, it did not allow these organizations access to illegal government-run detention facilities, including illegal facilities run by the ANR and the GR.

In January the ANR denied access by UNJHRO officers to holding cells in South Kivu and Katanga, claiming that permission must first be granted by the authorities in Kinshasa. According to the UNJHRO, this type of denial commonly occurred, despite the fact that UN Security Council resolutions related to MONUC's mandate state that UN human rights officers are to be granted immediate and unhindered access to all holding cells and places of detention. According to the ICRC, its personnel were also routinely denied access to ANR holding cells.

Armed groups outside central government control sometimes detained civilians, often for ransom, but little information was available concerning the conditions of detention (see section 1.g.).

Authorities took no action during the year against the mwami (local chief), other traditional leaders, or FARDC soldiers involved in the arbitrary and inhumane detention and mistreatment of 57 civilians accused of witchcraft at the mwami's private residence in Luvungi, South Kivu, for four days in 2007.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest or detention; however, government security forces routinely arbitrarily arrested and detained persons.

Role of the Police and Security Apparatus.—Among other elements, the security forces consist of the PNC, which operates under the Ministry of Interior and has primary responsibility for law enforcement and public order. The PNC includes the Rapid Intervention Police and the Integrated Police Unit. The ANR, overseen by the president's national security advisor, is responsible for internal and external security. Other agencies include the military intelligence service of the Ministry of Defense; the DGM, responsible for border control; the GR, which reports directly to the presidency; and the FARDC, which is part of the Ministry of Defense and generally responsible for external security, but which also carries out an internal security role.

Security forces generally remained undisciplined, lacked training, received little pay, and suffered from widespread corruption (see section 4). Members of the FARDC, police, and intelligence sectors continued to commit the majority of the country's human rights abuses.

Comprised of between 120,000 and 150,000 soldiers, about half of whom were deployed during the year in the conflict-affected east, the FARDC was ineffective, due in part to weak command and control, poor operational planning, low administrative and logistical capacity, and questionable loyalty on the part of some of its soldiers. Other serious obstacles to the formation of a coherent national army included lack of equipment and barracks.

In addition, in October UN special representative of the secretary-general Alan Doss, the head of MONUC, reported to the UN Security Council that, during the year, "the fast-track integration of up to 20,000 elements of former armed groups, some with very bad human rights records, into the FARDC has aggravated existing problems of indiscipline and crimes committed against the population." During the year independent UN experts and several international and domestic NGOs criticized the FARDC-led Kimia II counterinsurgency operation in the Kivu provinces

for lack of effectiveness, lack of planning for the protection of civilians, and failure to respect human rights (see section 1.g.).

According to UNSRESAE Alston, “regular failures” by the government to provide soldiers their rations and pay, together with embezzlement by commanders, contributed to indiscipline as soldiers continued “to literally prey on the population.” According to the UNJHRO, there was a direct correlation between salaries siphoned off by corrupt officers and the level of human rights abuses committed by the FARDC, the GR, the PNC, the DGM and the ANR. Abuses by FARDC soldiers were dramatically reduced in areas where they were paid and fed.

Impunity in the security forces remained a severe, widespread problem, and the weaknesses of the justice system continued to play a large role in the problem (see section 1.e.). The government prosecuted and disciplined few security forces personnel for abusing civilians. The military justice system, which has the responsibility of investigating misconduct or abuses by the security forces, had a total of 265 investigators, 232 prosecutors, and 125 judges in the military system in 2008, according to MONUC’s Rule of Law Unit. However, they were poorly trained, had little or no resources for investigations, and limited, if any, access to legal codes.

According to a HRW July report, *Soldiers Who Rape, Commanders Who Condone*, the military justice system remained a weak institution. HRW underlined that “only a small fraction” of the total number of acts of sexual violence committed by FARDC soldiers had been prosecuted. As an example, HRW reported that, during 2008, 27 soldiers were convicted of crimes of sexual violence in North and South Kivu. During the same year, the UN registered 7,703 new cases of sexual violence (by FARDC soldiers and other perpetrators) in North and South Kivu.

The Operational Military Court, which the government established during the year to address abuses committed by FARDC officers during *Kimia II* operations, made some progress in prosecuting a small number of low-ranking perpetrators. However, it lacked adequate staff, the ability to conduct its own independent investigations, and the power to undertake high-level prosecutions, and there remained concerns about the court’s respect for due process (see section 1.e.).

Most of the prosecutions undertaken by the military justice system continued to be lower-ranking officers or soldiers; rarely were mid-level or senior-level officers investigated for having committed acts of sexual violence, for example. When they were, sentences were rarely carried out. For example, in July a military court found a lieutenant colonel, Ndayambaje Kipanga, guilty of raping four girls in Rutshuru, North Kivu; as of year’s end, he was the highest-ranking FARDC officer convicted. However, he was convicted in absentia after escaping custody two days after his arrest in May, due to lax detention procedures, and he remained at large at year’s end. No general had yet been convicted, either for his own actions or for failing to control his troops. In December, in response to this trend, several members of the UNHRC’s Working Group on the Universal Periodic Review (UPRWG) urged the government to investigate and prosecute senior army officials involved or complicit in rampant sexual crimes against women and girls as part of its efforts to combat sexual violence.

In its November report to the UN Security Council, the UN Group of Experts (UNGEO) cited meetings it held with military justice prosecutors in North and South Kivu, who “reiterated the limitations...in effectively prosecuting sexual violence and underlined the lack of willingness at the highest level of the FARDC military command to ensure that perpetrators are held accountable.” Examples provided by the UNGEO of FARDC commanders who had failed to take any action after being notified of rape cases committed by their men included Colonel Alphonse Mpanzu of the 8th Integrated Brigade, deployed in Uvira (South Kivu) in the context of *Kimia II* (at least two cases of rape), and Lieutenant Colonel Salumu Mulenda, commander of the 33rd Brigade deployed in Uvira and Walungu territories (13 cases of rape). In addition, more than 50 cases of abuses by the 33rd Brigade (lootings, arbitrary detention, and burning of civilian properties) had been reported since the beginning of *Kimia II* operations, according to the group.

Several individuals who continued to be credibly accused of numerous serious abuses held senior positions in the FARDC. Of the “FARDC five,” the five senior FARDC commanders whose impunity for alleged crimes of sexual violence was raised again with President Kabila by the UN Security Council in May, only colonels Safari and Mobuli had been arrested (and were awaiting trial) as of year’s end, while General Kakwavu was placed under house arrest in Kinshasa. Colonel Mosala was requested to remain under house arrest but was not legally required to do so, and Major Pitchen was at large.

Following his assessment visit in October, UNSRESAE Alston characterized impunity within the security forces as “chronic.” He said that “endemic corruption and political interference ensure that anyone with money or connections can escape in-

vestigation, prosecution, and judgment.” Alston also stressed that both the government and MONUC must do more to combat widespread impunity, noting that, in response to his inquiries about a massacre in April, the government “was not prepared to take action against the commander responsible because [according to a government official] ‘arrest would have had worse consequences than the crimes of which he is accused.’” In addition, Alston expressed concern that both government and MONUC officials had indicated they would not take steps to arrest General Bosco Ntaganda, a senior FARDC commander for whom the International Criminal Court (ICC) issued an arrest warrant in 2006 relating to the recruitment and use of child soldiers in Orientale. An ex-CNDP chief of staff, Ntaganda was integrated into the FARDC during the year and, according to the UNGOE in the DRC, “given the post of deputy operational commander for Kimia II, although the FARDC has repeatedly denied his position in official circles.” Alston, who noted that Ntaganda’s whereabouts were well known, said that “both the Congolese government and MONUC must abandon their untenable ‘peace first, justice later’ approach.”

In December several members of the UPRWG recommended that the government increase efforts to investigate and prosecute (as appropriate) members of security forces, regardless of rank, who had been identified as perpetrators of serious abuses, including the FARDC five. Several members specifically urged the government to immediately arrest General Ntaganda and transfer him to the ICC. They also noted problems resulting during the year from the rapid integration of the CNDP and other armed groups into the FARDC and recommended that the government increase efforts to support the process of security sector reform as well as the process of disarmament, demobilization, reintegration, repatriation, and reinsertion.

During the year the government took few significant steps to reform the security forces, although legislation to reform the armed forces and national police was submitted to the parliament. According to the UN secretary-general’s December report to the UN Security Council, “lack of progress in this critical area remained a major concern.” However, the FARDC continued to participate in various training and professionalization programs supported by the UN and international donor countries, which included components on respecting international human rights. The FARDC also cooperated with the EU Mission to Provide Advice on and Assistance with Security Sector Reform (EUSEC) in its chain of payments project, which aimed to separate the FARDC chain of command from the military’s financial management. The EUSEC project involved the execution of a biometric census of the military to reliably identify all FARDC soldiers, improve the FARDC’s salary distribution system, prevent fraud and embezzlement, and ensure payments reached soldiers. By December EUSEC had completed a census of 17,587 newly integrated armed group elements into the FARDC.

In addition, some Congolese military prosecutors participated in joint investigation teams (JITs), a UN initiative launched during the year that focused on investigating crimes of sexual violence in the east. JITs, which consisted of UNJHRO officers and Congolese military prosecutors and investigators, received allegations of rape and other abuses from human rights groups and deployed to remote areas to investigate and collect evidence for judicial cases. The UNJHRO officers provided the military prosecutors and investigators with transportation, normally a debilitating deficiency in the investigation process. As the military prosecutors and investigators collected and processed information, they received in-the-field coaching and training in technical areas, such as forensics, witness protection and interviewing, and child protection. Although the JITs were ad hoc in nature and lacked adequate funding and personnel resources, participating military prosecutors and investigators and NGOs viewed JITs as a small but effective component in the fight against impunity.

In July President Kabila announced that the government had adopted a policy of “zero tolerance” for human rights violations by the security forces following intense criticism by donor countries and international human rights groups. The FARDC disseminated instructions to all soldiers that protecting the population was their duty and warned that rape and other crimes against civilians would be punished. In December several members of the UPRWG commended the government for adopting the policy but expressed concern over severe deficiencies in its implementation.

Several members of the UPRWG urged the government to implement by June 2010 the short-term anti-impunity reforms that were recommended by UNSRESAE Alston, who said in October that FARDC soldiers faced “no risk of punishment” for abuses, partly due to their anonymity. Alston urged the government to require all FARDC soldiers to wear uniforms showing their names and unit affiliation and recommended that the UN Security Council make this step a precondition for any further UN assistance. He also urged the government to immediately indict key mem-

bers of the military alleged to have committed war crimes, crimes against humanity, and other serious offenses, particularly General Ntaganda, Innocent Zimulinda, Sultani Makenga, Bernard Byamungu, and Salumu Mulenda. Lastly, he underlined the importance of security sector reform and the critical need to ensure the full integration into the FARDC of ex-CNDP members, which he said had “the potential to become an uncontrollable and explosive obstacle” to free elections and stability.

During the year the UNGOE and several members of the UPRWG recommended that the government implement a vetting mechanism for members of the security forces aimed at suspending officers who had committed past human rights abuses. By year’s end, the government had not undertaken any significant steps to institute such a system.

However, during the year the government continued to maintain joint military oversight committees with MONUC in several provinces. They were composed of military officers, military magistrates, MONUC human rights officers, and MONUC child protection officers. They met monthly to monitor, investigate, and develop strategies to combat sexual violence and other human rights abuses. Their effectiveness remained mixed at year’s end.

FARDC units throughout the country regularly engaged in illegal taxation and harassment of civilians. They set up checkpoints to collect “taxes,” often arresting individuals who could not pay the demanded bribes, and stole whatever food and money they could from them.

During the year the government continued to nominally work with MONUC and international donors on police and military training programs.

Arrest Procedures and Treatment While in Detention.—By law arrests for offenses punishable by more than six months’ imprisonment require warrants. Detainees must appear before a magistrate within 48 hours. Authorities must inform those arrested of their rights and the reason for their arrest, and may not arrest a family member instead of the individual being sought. They may not arrest individuals for nonfelony offenses, such as debt and civil offenses. Authorities must allow arrested individuals to contact their families and consult with attorneys. In practice, security officials routinely violated all of these requirements.

Prolonged pretrial detention, often ranging from months to years, remained a problem, as pretrial detainees constituted 80 percent of the prison population, according to the UN. Trial delays were due to factors such as judicial inefficiency, corruption, financial constraints, and staff shortages. Prison officials often held individuals after their sentences had expired due to disorganization, judicial inefficiency, or corruption.

Government security forces sometimes used the pretext of state security to arbitrarily arrest individuals and frequently held those arrested on such grounds without charging them, without presenting them with evidence, without allowing them access to a lawyer, or following other aspects of due process.

Police often arbitrarily arrested and detained persons without filing charges, often to extort money from family members. Authorities rarely pressed charges in a timely manner and often created contrived or overly vague charges. No functioning bail system existed, and detainees had little access to legal counsel if unable to pay. Authorities often held suspects in incommunicado detention, including in illegal facilities run by the ANR and the GR, and refused to acknowledge their detention.

On January 26, the criminal court in Punia, Maniema, ordered the arrest of the chiefs of the local ANR, DGM, and PNC offices and tried and sentenced them to 12 to 18 months in prison for the arbitrary arrest of nine civilians. However, according to the UNJHRO, the police chief remained free and had not been imprisoned at year’s end.

On February 11, ANR agents in Bukavu, South Kivu, arbitrarily arrested a civilian and detained him in a secret holding cell until he paid \$20. According to the UNJHRO, ANR agents rearrested him on February 24. The agents released him the next day after taking his belt, shoes, and \$70. Authorities took no action against the agents.

According to the UNJHRO, the ANR director of Kasai Oriental ordered the temporary closing of all ANR offices in Lusambo Territory on February 13 because of concern over the numerous human rights abuses, especially illegal detentions, committed by local ANR agents. It was not known whether the director undertook any investigations or took disciplinary action against subordinates.

The police chief of Panu Pay Pay, Bandundu Province, arbitrarily arrested two civilians and took two of their cattle during the week of April 4-10 in lieu of arresting their brother, who was wanted by the police. In response, the local population severely beat the police chief. Subsequently, local FARDC soldiers were deployed and pillaged the homes of the local population, arresting and beating anyone they could

apprehend. Authorities took no action against the police chief or the FARDC soldiers.

Military authorities took no action against a FARDC soldier attached to the Office of the Military Prosecutor, who arbitrarily arrested a woman in January 2008 in Bandundu, Bandundu Province, in place of her son.

Authorities took no action against the military prosecutor of Kolwezi, Katanga, who arrested and detained a woman and her one-year-old baby in February 2008.

In March 2008 the commander of the Karawa Police Station in Equateur illegally detained a suspect in the commander's private residence for three months and mistreated him, resulting in the man's death in July 2008. According to CCFE, the military prosecutor subsequently granted the commander provisional freedom. However, a trial date had not been set as of year's end.

Of the 174 inmates determined in May 2008 by the vice-minister of human rights to be illegally detained in the CPRK, an additional 11 were released during the year, while seven remained in prison at year's end.

No action was taken against the police inspector of Buta, Orientale, for the 2007 arrest and torture of a judicial investigator and the arbitrary arrest of his wife.

Security personnel detained perceived opponents and critics of the government during the year (see sections 2.a. and 5).

Amnesty.—The Goma peace accords envisioned a general amnesty for acts of war and insurrection committed in North and South Kivu by groups that signed the accords, covering the period from June 2003 to the date of the promulgation of the amnesty. President Kabila promulgated the amnesty bill passed by the parliament in May. The amnesty bill specifically excluded war crimes, crimes against humanity, and genocide.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; in practice, judges, who were poorly compensated, remained subject to influence and coercion by officials and other influential individuals.

Following his October assessment of the country, UNSRESAE Alston concluded that “across the country, endemic corruption and political interference ensure that anyone with money or connections can escape investigation, prosecution, and judgment. Judges’ appointments, removals, and promotions are subjected to frequent political interference.”

On July 15, President Kabila issued 14 presidential ordinances dismissing and forcibly retiring 114 magistrates and 43 prosecutors, including the president of the Supreme Court and the prosecutor general of the republic, ostensibly for corruption and other abuses of office. The ordinances followed Kabila's June 30 speech celebrating the country's independence, in which he warned he would take immediate action against corruption in the justice sector. When the ordinances were issued, the High Council of Magistrates (CSM), the country's supreme judicial oversight body, which is charged with disciplining judges and prosecutors and protecting the judiciary from executive intimidation and manipulation, was not fully formed; although the president signed the law establishing the CSM in August 2008, the CSM disciplinary chambers authorized by law had not been created. At year's end, the CSM continued to employ interim bodies that substituted for the unformed disciplinary chambers provided for by law.

The dismissals and forced retirements generated significant controversy and concerns among some observers over the executive branch's apparent influence over the judiciary and failure to respect due process. Government officials said publicly that, in the absence of the CSM disciplinary chambers, the dismissals were issued following proper interim procedures. However, according to international judicial experts who specialized in the Congolese legal system and who examined the dismissals, the government did not follow the required disciplinary procedures before removing the jurists, including providing the accused an opportunity to appeal the decisions. These sources expressed concern that the ordinances likely would further reinforce the influence of the executive branch over the judiciary and that they represented what appeared to be an abuse of executive power.

The government cited corruption and other forms of professional misconduct as reasons for the removals and forced retirements. However, it was unclear if the action represented a new government effort to combat corruption or rather a new push by the executive branch to exert influence over the judiciary. The allegations of misconduct remained “questionable in most cases,” according to some judicial experts and NGOs. Some NGOs, foreign diplomats, and international judicial experts expressed concerns that the ordinances could “paralyze justice in many more jurisdictions” by removing such a high number of experienced judges, equivalent to 7 percent of the country's judges.

The leader of one of the country's trade unions for judges issued a statement condemning the dismissals and forced retirements, and magistrates said they would challenge the ordinances on procedural grounds. Several of the jurists who were dismissed or forced to retire protested what they deemed a failure by the government to respect due process. In a memorandum, they requested the annulment of the presidential ordinances, referring to past precedent, and criticized some of the judges nominated for promotion, noting that one promoted judge had been convicted and sentenced to an eight-month prison term.

Similarly, in February 2008, while the laws to create new constitutionally mandated judicial institutions were under parliamentary consideration, the president began to reorganize the judiciary. President Kabila signed seven presidential decrees appointing 28 new magistrates, most notably a new chief justice of the Supreme Court and prosecutor general, and forced into retirement 89 other magistrates, despite a severe shortage of judges. The new magistrates were appointed to positions beyond their qualifications.

In a March report to the UNHRC, the UN special rapporteur on the independence of judges and lawyers and six other UN special rapporteurs and representatives collectively underlined that "political interference at all stages of the criminal process is very common." The report cited "numerous incidents, especially in the east," in which military and civilian judges and prosecutors were threatened and attacked by FARDC soldiers or members of armed groups "to intimidate them, disrupt criminal proceedings, and ensure impunity." It also noted that "extremely low salaries" in the justice, law enforcement, and penitentiary sectors facilitated corruption at all levels.

Judicial corruption remained pervasive, particularly among magistrates. The judicial system was funded with less than one percent of the national budget and was poorly staffed, with a very limited presence outside of Kinshasa. There were fewer than 1,500 magistrates (judges who serve in the lowest level courts) serving the entire population (one magistrate for every 45,000 citizens), and two-thirds of them were located in Kinshasa, Matadi (Bas-Congo), and Lubumbashi (Katanga). There were fewer than 200 courts, of which approximately 50 were functioning during the year. In rural areas, where there were often no courts within a 300-mile radius, justice was administered on an ad hoc basis by any available authority, creating extraordinary opportunities for corruption and abuse of power. During the year some observers asserted that members of both the executive and legislative branches were content to keep the judiciary weak and ineffective because it protected their power and allowed them to engage in corruption and abuse of power without consequence.

According to the UNJHRO, despite some convictions of members of the FARDC during the year, law enforcement personnel and magistrates continued to treat rape and sexual violence in general with a marked lack of seriousness. Consequently, men accused of rape are often granted bail or given relatively light sentences, and out-of-court settlements of sexual violence cases remained widespread. However, during the year the government cooperated with the UN and donor nations to train civil and military judges in methods to effectively adjudicate rape cases.

The civilian judicial system, including lower courts, appellate courts, the Supreme Court, and the Court of State Security, failed to dispense justice consistently and was widely disparaged by the international community and citizens as ineffective and corrupt.

The 2006 constitution provided for new judicial institutions and laid the foundation for an independent judiciary by removing previous presidential powers to appoint and remove magistrates. The constitution divided the Supreme Court's functions into a Constitutional Court, Appeals Court, the CSM, and Administrative Oversight Agency. However, by year's end, the CSM was not fully operational, and no legislation had been promulgated to establish the Constitutional Court, the Appeals Court, or the Administrative Oversight Agency. In the absence of the judicial institutions provided for by the 2006 constitution, the existing structures—including the Supreme Court, Appeals Court, Superior Court (Tribunal de Grande Instance), and the misdemeanor courts known as Tribunaux de Paix—continued operating.

While the new structures provided for in the 2006 constitution were designed in part to increase access to justice, the government still had not implemented structures that were introduced by laws promulgated decades ago. For example, the 1982 law establishing the Tribunaux de Paix, which handle cases involving crimes punishable by less than five years' imprisonment, provides for one tribunal in each town and rural zone. According to an August report by the International Bar Association's Human Rights Institute (IBAHRI) and International Legal Assistance Consortium (ILAC), if this law were carried out, there should be 180 of these tribunals; however, only 58 were in place, and only 45 were functioning.

Military courts, which had broad discretion in sentencing and provided no appeal to civilian courts, continued to try military as well as civilian defendants during the

year. Some areas of the country, particularly the east, continued to be served only by military justice, due to the absence of any operational civilian justice component. Although the 2006 constitution limits jurisdiction of military courts to members of the FARDC and PNC, at year's end, the military judicial code and the military penal code of 2002 had not been harmonized with the constitution. As of August, the minister of justice had initiated a reform process that aimed in part to harmonize military justice with the constitution; however, the military code of justice, in place prior to the adoption of the present constitution, continued in force during the year. It prescribed trial by military courts of all cases involving state security, including offenses related to military personnel, and "weapons of war" (firearms), whether the defendants were members of the military or civilians. In 2007 the UN's resident expert on human rights recommended that the government establish a clearer separation between civilian and military jurisdictions; however, no action was taken by parliament during the year to address this.

In December the UN secretary-general reported to the UN Security Council about "extraordinary" military justice mechanisms established in the Kivus, including the Operational Military Court (see section 1.d.). He expressed concern that, "while contributing to discipline within the FARDC, there continued to be serious doubts regarding the legal basis of the mechanisms and their respect of fair trial standards, particularly since they do not contemplate a right of appeal." In addition, in its report to the UPRWG, a coalition of international NGOs criticized the newly created Operational Military Court for disrespecting basic due process rules.

The law requires that a defendant can be tried only by a judge in the military justice system who is of equal or higher rank than the accused. In practice, this provision continued to provide senior military suspects with protection from prosecution.

According to the August report by the IBAHRI and ILAC, there were two main reasons why the executive branch and military command "continue to violate the independence of military judges" and prosecutors:

First, alliances between government forces and various rebel groups continued to foster loyalties that have prompted government officials to try to prevent the prosecution of some of the leaders and members of these armed groups. For example, according to IBAHRI and ILAC, in a letter from the minister of justice obtained by NGOs, the minister "ordered that no action be taken against members of [the CNDP], and that ongoing proceedings were to be discontinued." The date of the letter, February 9, was shortly before the March peace agreement in which the CNDP formally agreed to cease hostilities against—and integrate into—the FARDC and assist in operations against the FDLR.

Second, military police and military prosecutors remained dependent on the military chain of command for logistical and administrative requirements, and military judges and prosecutors were sometimes beaten or even tortured for having acted against members of the FARDC without prior authorization from the commander. For example, despite investigations launched by authorities late in 2007, authorities took no action during the year against General Jean-Claude Kifwa, commander of the 9th Military Region and a cousin of President Kabila, and his security detail for arresting and severely beating two military magistrates in Kisangani, Orientale. They allegedly arrested the magistrates for objecting to two pending cases being tried in the military instead of the civilian court system.

According to the UNJHRO, high-ranking military officers continued to adjudicate cases in which their own soldiers were implicated. Their alleged interference resulted in several out-of-court settlements regarding rape cases.

In their March report to the UNHRC, seven UN special rapporteurs and representatives made several recommendations for the government regarding the fight against impunity and the need to strengthen the justice sectors. They recommended that the government increase the justice portion of the national budget "to an acceptable level comparable with other countries (2-6 percent)," and that it strengthen the civilian justice sector by passing legislation assigning criminal jurisdiction over perpetrators from among police or the civilian population to civilian prosecutors and courts. Emphasizing the importance of expanding the justice system in rural territories, the report recommended establishing more mobile courts with increased or "hardship" pay to induce qualified judicial personnel to serve in conflict posts and establishing a network of justices of the peace linked to traditional modes of dispute resolution.

Noting how difficult it was for victims to pursue reparations (see section 6, women), the report underlined the need to motivate victims to pursue justice and recommended establishing a compensation guarantee fund, managed jointly by the government, donor countries, and civil society, to pay reparations awarded by national courts or the ICC to victims of serious abuses. Highlighting the need for tran-

sitional justice and truth-seeking initiatives, the report also recommended establishing mixed courts comprising national and international judges and sitting in national courts.

While no mixed courts were established during the year, a UN human rights mapping initiative, which was endorsed by the government and was intended to catalogue abuses committed in the country between 1993 and 2003, finished its field research and was drafting its final report at year's end. In addition, although a National Truth and Reconciliation Commission (CVR) was established in 2003, it became defunct in 2006 and was criticized for its operational standards and perceived lack of independence and transparency. Several NGOs submitted reports to the UPRWG during the year recommending the CVR be reestablished with a well-defined mandate, greater independence, and sufficient resources to carry out its work.

Trial Procedures.—As provided for in the constitution, defendants enjoy a presumption of innocence until proven guilty. However, in practice most detainees were treated as already having been convicted. Although the government permitted, and in some cases provided, legal counsel, lawyers often did not have free access to defendants. The public could attend trials only at the discretion of the presiding judge. Juries are not used. During trials defendants have the right to be present and to be provided a defense attorney. However, in practice these rights were not always respected. Defendants have the right to appeal in most cases except those involving national security, armed robbery, and smuggling, which the Court of State Security generally adjudicated. Defendants have the right to confront and question witnesses against them and can present evidence and witnesses in their own defense. The law requires that defendants have access to government-held evidence, but this was not always observed in practice. There were no reports of women or specific ethnic groups being systematically denied these rights.

Political Prisoners and Detainees.—There were reports of political prisoners and detainees, and the UNJHRO estimated that there were at least 200 political prisoners in detention at the end of the year. The government permitted access to some political prisoners by international human rights organizations and MONUC; however, authorities consistently denied access to detention facilities run by the GR and the ANR (see section 1.c.).

Civil Judicial Procedures and Remedies.—Civil courts exist for lawsuits and other disputes, but the public widely viewed them as corrupt. The party willing to pay the higher bribe was generally believed to receive decisions in its favor. Most individuals could not afford the often prohibitive fees associated with filing a civil case. While the law stipulates access to free legal counsel for citizens in civil trials, in practice magistrates remained overburdened by large caseloads in areas outside of Kinshasa. It was difficult to retain the continued services of lawyers, who often spent minimal time outside of the capital. No civil court exists specifically to address human rights violations.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law prohibits arbitrary interference with privacy, family, home, or correspondence; however, security forces routinely ignored these provisions. Soldiers, demobilized soldiers, deserters, and police continued to harass and rob civilians. Security forces routinely ignored legal requirements and entered and searched homes or vehicles without warrants. In general those responsible for such acts remained unidentified and unpunished. Security forces sometimes looted homes, businesses, and schools.

For example, on April 9, soldiers from the FARDC 18th Brigade broke into and looted several homes in Rubare, North Kivu, according to the UNJHRO. By year's end, authorities had taken no action against the soldiers.

On April 4, soldiers from the FARDC 15th Brigade broke into and looted several homes and businesses in Shabungu, South Kivu. By year's end, authorities had taken no action against the soldiers.

Authorities took no action against two police officers who, in July 2008, reportedly broke into the home of and severely beat a man in Mbuji-Mayi, Kasai Oriental, in connection with a debt.

Authorities at times arrested or beat a relative or associate of a person they sought to arrest (see section 1.d.).

Armed groups operating outside government control in the east routinely subjected civilians to arbitrary interference with privacy, family, home, and correspondence (see section 1.g.).

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—Internal conflict continued in rural and mineral-rich parts of the east, particularly in North Kivu and South Kivu, Bas Uele and Haut Uele Districts of Orientale, and to a lesser degree, the Ituri District of Orientale. According to a countrywide International Rescue Committee mortality survey released in January 2008, conflict and related hu-

manitarian crises, including the destruction and deterioration of essential infrastructure such as health centers, resulted in the deaths of an estimated 5.4 million Congolese between 1998 and 2007, or the equivalent of 45,000 per month through the survey period.

Despite the integration of former CNDP rebels into the FARDC during the year, the FDLR, LRA, and some Mai Mai groups continued to battle government forces and attack civilian populations. Military preparations during the year, and the fighting itself, led to further depredations against civilians by members of security forces and armed groups. This continuation of fighting in the east, which impeded humanitarian aid in some areas, internally displaced at least 700,000 persons between January 1 and December 31, exacerbating an already severe humanitarian crisis.

At the end of the year, more than 20,000 MONUC peacekeepers, military observers, and police—including 6,785 in North Kivu and 3,853 in South Kivu—continued efforts to provide protection to several million civilians and logistical support and training to the FARDC.

Despite the presence of MONUC, security forces and armed groups continued to kill, abduct, torture, and rape civilians and burn and destroy villages. Between January—the beginning of FARDC-led military operations against the FDLR—and December, more than 1,714 civilians were killed in North and South Kivu, according to MONUC. In addition, during military operations by the FARDC and the Ugandan military against the LRA in Haut and Bas Uele districts of Orientale, the LRA had killed hundreds of civilians since January 1 during retaliation attacks.

According to an October report by a coalition of NGOs, Civilian Cost of Military Operation Is Unacceptable, between January and October, FARDC military operations against the FDLR in North and South Kivu resulted in 6,000 homes burned to the ground and hundreds of civilians forced into temporary labor by armed groups.

All parties continued to use mass rape and sexual violence with impunity, often as weapons of war, and to humiliate and punish individuals, victims, families, and communities. Between January and June, the UN Population Fund (UNFPA) reported 2,075 cases of sexual violence in North Kivu, 834 in South Kivu, and 885 cases in Orientale. According to HRW, by September the total number of sexual violence cases registered at health centers in North and South Kivu exceeded 7,500, which was nearly double the total for the same period in 2008. During the year the International Rescue Committee registered approximately 1,200 cases of rape in South Kivu and it found that up to 80 percent of survivors identified their assailants as members of either the FARDC or armed groups. While the actual number of cases was likely much higher, lack of data, social stigma, lack of confidence in the judiciary, and fear of reprisals prevented many rape survivors from coming forward.

HRW reported in August that, in nine conflict zones it had visited since January, rape cases had doubled or tripled compared with 2008. In over half of the cases HRW recorded, the victims were gang-raped by two or more assailants. The youngest victim was 2 years old, and 65 percent of the cases in North Kivu were perpetrated by FARDC soldiers.

In September International Cooperation (COOPI), an international development assistance NGO, expressed concern after observing, between February and July, a 300 percent increase in the number of survivors of sexual violence it assisted in Maniema and Katanga, which the NGO attributed to a “spill-over effect” caused by Kimia II in neighboring conflict-affected provinces (North and South Kivu).

Rapes committed against a single woman by large numbers of armed men sometimes resulted in vaginal fistulas, a rupture of vaginal tissue that left victims unable to control bodily functions and likely to be ostracized.

During the year the number of men raped appeared to increase sharply due to retribution attacks by armed groups in the east following counterinsurgency operations against the FDLR that began in January. The number of male rape cases may have numbered in the hundreds during the year, but statistics for male rape were even more difficult to compile than those for female rape, as social stigma prevented many male victims from coming forward. According to the American Bar Association, which ran a legal aid clinic in North Kivu for victims of sexual violence, 10 percent of its cases during June were men. NGOs and medical workers reported that the humiliation was often so severe that male rape victims came forward only if they had urgent health problems, and according to HRW, two men whose penises were cinched with rope died a few days later because they were too embarrassed to seek help.

The recruitment and use of children by all armed groups active in North and South Kivu and Orientale continued. In March the UN special representative for

children and armed conflict and six other UN special rapporteurs and representatives collectively reported to the UNHRC on an “explosion of child recruitment by nonstate armed groups” in the country between September 2008 and March 2009 as a result of outbreaks of hostilities during that period. According to a UN Children’s Fund (UNICEF) estimate in late March, there were 8,000 children in the ranks of all armed groups and in several units of government security forces in the east, with the majority of them found in armed groups, serving as combatants, porters, spies, and sex slaves. The estimate represented an increase of 4,500 children, compared with the UNICEF estimate for 2008. In October BVES estimated that there were 5,000 child soldiers in the country, noted that many of them were girls, and emphasized the extreme difficulty of securing the release of girl soldiers from armed groups, whose commanders often saw them as sexual possessions.

During the year MONUC facilitated the release more than 2,000 children from armed groups (see section 6).

Fighting between the FARDC and armed groups continued to displace populations and limit humanitarian access to conflict areas. According to HRW, between January and October there were 84 attacks on humanitarian agencies working in the country, which represented a significant increase, compared with the 36 attacks during the same period in 2008.

In North and South Kivu, the illegal exploitation by some FARDC units, armed groups such as the FDLR, and PARECO of natural resources—including cassiterite (a tin oxide) and columbite-tantalite (or coltan), both of which were used in the global electronics industry—continued to prolong the conflict, facilitate the purchase of small arms to commit abuses, and reduce government revenues needed for increasing security and rebuilding the country. FARDC and FDLR forces in both Kivu provinces forced civilians to work for them or relinquish their mineral production and extorted illegal “taxes.”

In November the UNGOE further identified linkages between the illegal exploitation of natural resources in the east, the conflict, corruption, and human rights abuses, such as rape, committed by all parties to the conflict. It collected credible evidence of the large-scale smuggling of minerals, such as gold (see section 4). The UNGOE recommended that the government reduce the presence of—and eventually remove—military units at mining sites, in part by replacing the FARDC with the relevant government authorities such as the Mining and Hydrocarbons Police. The UNGOE further recommended that the government create a national tribunal to prosecute the abuse of military and police powers in connection with the illicit exploitation of natural resources. Regarding transparency and mineral traceability initiatives, the UNGOE recommended that the government establish an independent monitoring team, with the support of the international community, to conduct spot checks of minerals shipments and determine sanctions for illegal mineral trading activity.

The UNGOE also urged the government to suspend the trading licenses of all noncompliant national companies and take legal action against the directors of those companies that violate the UN arms embargo by trading in mineral resources from nongovernmental armed groups. In addition, the UNGOE recommended that the UN Security Council ask UN member states to take necessary measures to define the supply chain-related due diligence obligations of companies under their respective jurisdictions that operate in the mineral trading sector, and that companies adopt codes of conduct detailing the procedures they have adopted to prevent any indirect support to nongovernmental armed groups through exploitation of natural resources.

At times verification of reported abuses in the east was difficult due to geographical remoteness and hazardous security conditions; however, MONUC’s presence allowed observers to gather more information than would have otherwise been possible.

During the year independent UN experts and several international and domestic NGOs criticized the FARDC-led Kimia II counterinsurgency operation. In its November report to the UN Security Council, the UNGOE concluded that “military operations against the FDLR have failed to dismantle the organization’s political and military structures on the ground in eastern DRC.” UNSRESAE Alston said the operation, during which MONUC provided logistical support to the FARDC, “has been so poorly carried out that the FDLR has easily been able to reenter villages abandoned by the Congolese and UN forces and commit brutal retaliation massacres of civilians.” Underlining that it was the FARDC themselves who posed the greatest direct risk to civilians in many areas of the Kivus, Alston said the lack of vetting, training, and planning of the integration of former armed group members, especially the ex-CNDP, into the FARDC in the Kivus “has escalated abuses committed by the

army against civilians, and failed to break down parallel ex-CNDP command structures within the army.”

In October a coalition of more than 80 human rights and humanitarian NGOs emphasized that Kimia II had resulted in an unacceptable cost for the civilian population, calculating that, for every FDLR combatant who was disarmed during Kimia II, there were seven civilians raped, one killed, and 900 forced to flee. The coalition, which included HRW, Oxfam, and the Enough Project, urged diplomats and UN officials to immediately increase efforts to protect civilians from abuses and strongly recommended that MONUC condition its logistical support for FARDC units involved in Kimia II on respect for human rights. By year's end, MONUC had invoked a more strenuous interpretation of conditionality, cutting off assistance to a FARDC brigade (see subsection below) that was involved in civilian killings, as documented by the UNJHRO.

While there was inadequate civilian protection and a well-documented and significant humanitarian cost due to the military operations in the Kivus and Orientale, the government and MONUC, as well as some NGOs and foreign diplomats, argued some of the military objectives of the operations, particularly in Orientale against the LRA, were accomplished. Some NGOs expressed concern that the FARDC's military objectives in the Kivus were not well defined; however, there were some successes. For example, in the Kivus, FDLR elements were pushed away from most major cities and towns and further into the bush. The FDLR was also denied access to some of its most profitable mining areas. Finally, MONUC estimated that more than 1,114 FDLR were killed during Kimia II and that, between January and December, a total of 1,522 FDLR combatants and 2,187 of their dependents were repatriated to Rwanda.

Abuses by Government Security Forces.—Government security forces arrested, illegally detained, raped, tortured, and summarily executed or otherwise killed civilians and looted villages during military actions against armed groups during the year, according to reports by UN agencies and NGOs. Impunity remained a severe problem, and several individuals in the security forces continued to hold high positions despite credible evidence of their involvement in serious human rights abuses or despite failing to hold their subordinates accountable for committing serious abuses (see section 1.d.).

From January through late February, the FARDC conducted Umoja Wetu, a joint military operation with the Rwanda Defense Forces (RDF) against the FDLR in North Kivu. After the official withdrawal of the RDF in late February, the March 23 accords facilitated the rapid integration of the CNDP, which had previously fought the FDLR, and 23 other armed groups into the FARDC. In March the FARDC launched Kimia II, which lasted until the end of the year. According to the government, this operation, which received logistical support from MONUC, was also designed to induce FDLR elements to surrender and repatriate. It focused on the wider area of both North and South Kivu provinces. During both operations, there were numerous credible reports that FARDC soldiers committed abuses against civilians, including those suspected of collaborating with the FDLR. According to a December report by HRW, the joint DRC-Rwandan operation resulted in civilian deaths.

GR troops, who initially made up the bulk of the force deployed against the LRA in Rudi II military operations in Haut and Bas Uele, Orientale, were relatively well paid and disciplined. When these battalions were replaced by newly integrated FARDC forces in September, credible reports of FARDC abuses became more frequent. As of year's end, UN and FARDC officials stated that the newly integrated FARDC units in Orientale, composed of approximately 6,000 soldiers, had become a major security threat.

In its comprehensive December report, *You Will Be Punished*, HRW detailed widespread attacks on civilians during Umoja Wetu and Kimia II in the Kivus. HRW documented the deliberate killing of at least 732 civilians, including 143 Rwandan Hutu refugees, by FARDC soldiers, often former CNDP members, engaged in anti-FDLR operations between January and September. The FDLR also killed numerous civilians during these operations (see subsection further below on FDLR abuses).

According to reports from HRW, the joint DRC-Rwanda operation resulted in 201 civilian deaths and other abuses. For example, according to the HRW report, in late February soldiers gathered residents of Ndorumu, North Kivu, by calling a meeting at a local school and subsequently shot and killed approximately 90 villagers, including women and children, reportedly for collaborating with the FDLR. In a similar operation, approximately 40 persons were killed during a February attack on residents of Byarenga, North Kivu, and there were smaller numbers of civilians killed in other incidents during these two months.

According to HRW, several of the victims and witnesses they interviewed “found it difficult, if not impossible, to distinguish Rwandan army soldiers from former CNDP combatants recently integrated into the FARDC, who played an important role in the operation.” The HRW report, citing a 2008 UNGOE report, noted that “soldiers of both armies often wore identical camouflage uniforms and that Rwandan army soldiers had Rwandan flags on their uniform sleeves. In some cases former CNDP combatants had the same army uniforms, although they usually removed the Rwandan flag.”

The Rwandan government denied that RDF soldiers had participated in any killing of civilians in the DRC. Neither Congolese nor Rwandan authorities had taken any steps to investigate or prosecute any soldiers allegedly involved in either incident by year’s end.

During the year there were several reports of attacks against Rwandan Hutu refugees. The most severe attack occurred in the Masisi Territory town of Shalio, North Kivu. According to the UNJHRO and UNSRESAE Alston, in and around Shalio, FARDC soldiers shot and beat to death at least 50 Rwandan refugees between April 27 and April 29 while conducting an operation against the FDLR. (HRW reported that the soldiers killed 129 refugees.) On April 27, FARDC soldiers, many of whom were reportedly ex-CNDP members, attacked a makeshift camp of Rwandan Hutu refugees in Shalio. According to interviews by HRW with survivors and soldiers who were present during the attack, the soldiers, who were under the command of Lieutenant Colonel Innocent Zimurinda, surrounded the camp and shot, mutilated, and clubbed to death at least 50 refugees, mostly women and children, and then burned the camp to the ground. Women and girls, some of whom were later killed, were raped during the attack.

The FARDC soldiers then abducted approximately 40 women from the camp and took them to nearby Busurungi, where they were kept as sex slaves. The FDLR retaliated with an attack on Busurungi, where they killed 96 persons (see subsection further below on FDLR abuses). According to UNSRESAE Alston, 10 of the women who escaped the FARDC attack described being gang-raped and had severe injuries; some had chunks of their breasts hacked off. (It was not known what happened to the other 30 women.) According to HRW, in the days that followed, the FARDC soldiers also attacked the nearby towns of Biriko, where they beat 46 refugees to death with wooden clubs and shot three men who tried to flee; Bunyarwanda, where they killed at least 15 refugees; and Marok, where they killed at least 15 civilians.

Neither Congolese authorities nor MONUC had undertaken an investigation into the Shalio killings by year’s end, according to HRW. However, according to interviews with soldiers by HRW, Zimurinda, who was responsible for the FARDC’s 231st Integrated Brigade, directly ordered the soldiers to kill all individuals taken by their forces, including refugees. Zimurinda reportedly ordered an intelligence officer, Captain Jules Hareremana of Battalion 2312, to lead the attack on the refugee camps after a major with the same battalion was unwilling to carry it out. The UNGOE and UNSRESAE Alston also indicated there was evidence that Zimurinda bore responsibility.

In early August, FARDC soldiers, mainly ex-CNDP members, reportedly attacked five hamlets around Mashango hill in the Nyabiondo-Pinga area, killing at least 81 civilians. According to witnesses interviewed by HRW, only one of the hamlets housed APCLS combatants, while the others housed only civilians. However, the attacking FARDC soldiers “made no distinction between the two,” killing civilians by decapitating them, chopping some victims with a machete, clubbing others to death, or shooting them as they tried to flee, according to HRW. The victims included 30 women, 12 children, and five elderly men.

HRW also reported that FARDC soldiers “randomly but repeatedly killed civilians” as they encountered them on roads and footpaths or while passing through villages or towns on their way to or from military operations against the FDLR and the APCLS militia in the Nyabiondo-Pinga area of North Kivu. HRW received credible information from local authorities and eyewitnesses about 139 civilians killed in such incidents between March and September. HRW concluded that the widespread nature of the killings over many months indicated that FARDC soldiers “perceived the local population of this area as collaborators of the FDLR and APCLS militia and sought to punish them.” In addition, a former CNDP officer integrated into the FARDC told HRW that the operations in the Nyabiondo-Pinga area were intended to “kill civilians and terrorize the Hunde and Hutu population” so that the land would be cleared for the return of Congolese Tutsi coming back from Rwanda to resettle in the DRC.

In November MONUC announced that it would suspend logistical support for the FARDC’s 213th Brigade after a MONUC investigation found that it was implicated in the killing of at least 62 civilians between May and September, during its partici-

pation in Kimia II, in the Lukweti area near Nyabiondo, North Kivu. Investigations by human rights organizations indicated as many as 270 may have been killed during this period. MONUC ceased all support for this brigade and was monitoring disciplinary action against the accused perpetrators that was reportedly underway within the FARDC; no additional information was available.

On July 15, men in FARDC uniforms reportedly killed an employee of Secours Catholique-Caritas, an international human rights and humanitarian organization, in Musezero, North Kivu. According to the NGO, villagers reported seeing two men in FARDC uniforms stop the employee before shooting him. While Caritas demanded that military authorities investigate the killing, there were no reports of an investigation as of year's end.

Between December 17 and 28, fighting between FARDC soldiers resulted in the deaths of at least 19 civilians in villages in Masisi Territory, North Kivu. At the beginning of December, more than 150 ex-CNDP rebels, led by Colonel Emmanuel Sengiyumva, deserted from the ranks of the FARDC. On December 17-18, 15 civilians, including women and children, were killed while FARDC soldiers chased ex-CNDP deserters.

Military authorities took no action against any of the following FARDC elements accused of killings: members of the FARDC 13th Integrated Brigade reportedly responsible for the disappearance of at least six civilians and the arbitrary execution of at least one civilian during January 2008 in Kamatsi, Orientale or members of the FARDC 2nd Integrated Brigade who allegedly killed eight civilians in January 2008 in Musezero, North Kivu.

Following the November 2008 arrest of 24 FARDC soldiers by the military prosecutor in Goma, there were no further developments regarding the serious abuses they allegedly committed against the local populations in October 2008, including the killing of nine civilians, the rape of three girls, and the pillaging of numerous homes, stores, and restaurants.

There was no reported action taken against the FARDC gunman or any of the soldiers accused of involvement in the 2007 shooting death of a Senegalese peacekeeper.

There were no reports of authorities taking any action against two FARDC corporals of the 24th Integrated Battalion, who the Office of the Military Prosecutor determined were responsible for the 2007 arbitrary execution of two civilians in Beni, North Kivu.

Authorities took no action in the case of a FARDC soldier of the 7th Integrated Brigade who allegedly shot and killed a civilian in Kabaya, North Kivu, following an argument in 2007.

The FARDC also continued to physically abuse and arbitrarily arrest civilians in the east.

FARDC soldiers engaged in anti-FDLR operations often arbitrarily arrested civilians whom they suspected of being collaborators or sympathizers of the FDLR and detained them without charge for days or weeks, often beating them and demanding payment for their release. HRW documented more than 160 such cases between January and September in the Kivus.

According to HRW, it received reports of civilians who alleged that, during the Umoja Wetu operation, they were arrested arbitrarily in the DRC by security personnel, some of whom then changed into Rwandan army uniforms before taking them across the border to Rwanda. All reported being returned to the DRC after being held for a period of up to 17 days. There was no other independent confirmation of these reports. Neither Congolese nor Rwandan authorities had taken any steps to investigate or prosecute any soldiers allegedly involved in such incidents as of year's end.

On May 15, FARDC soldiers deployed to Kanyola, South Kivu, allegedly forced civilians from Walungu village, South Kivu, to carry their belongings on the road from Nkokwe to Hombo. The soldiers beat the men each time they tried to rest. Two civilians died of exhaustion and mistreatment.

Authorities took no action against FARDC elements accused of gang-raping nine women and committing other abuses in 2008 after reportedly deserting their units in Orientale.

Despite receiving a formal complaint from victims, the Office of the Military Prosecutor in Kalemie, Katanga, took no action against 25 FARDC soldiers of the 67th Integrated Brigade, who subjected 92 civilians in the village of Kahese, Katanga, to cruel, inhuman, and degrading treatment as well as extortion in 2007.

Authorities took no action against the ANR for arbitrarily arresting four individuals in 2007 in Goma, North Kivu, for allegedly collaborating with the CNDP.

Rape by members of security forces remained a serious problem, and perpetrators enjoyed almost total impunity. According to a December report by HRW, in North

Kivu, in 349 of the 639 sexual violence cases documented by HRW, the victim or other witnesses clearly identified the perpetrators as government soldiers.

According to HRW, in January newly integrated ex-CNDP FARDC soldiers violently raped and beat a rape counselor in South Kivu after accusing her of denouncing them and reporting on the rapes.

On March 11, a FARDC soldier from the 17th Integrated Brigade raped a 10-year-old boy in Walungu, South Kivu. The soldier's commander subsequently arrested him and transferred him to the military prosecutor's office in Bukavu, where he remained in detention pending the outcome of an investigation. No additional information was available.

On June 13, several FARDC soldiers in Nyamilima, North Kivu, allegedly raped eight women and five minors during a riot protesting a delay in the payment of their salary, according to the UNJHRO.

Authorities took no action against a FARDC soldier of the 14th Integrated Brigade, who in July 2008 arrested and raped a woman suspected of collaborating with the FDLR, according to the UNJHRO. The commanding officer of the perpetrator offered the victim 5,000 Congolese francs (approximately \$5.60) in 2008 to settle the matter.

There were no reports of authorities taking action against soldiers of the FARDC 7th and 15th integrated brigades, who raped at least 10 women while retreating amid combat operations in the Rutshuru Territory villages of Kibirizi and Nyanzale in North Kivu between September and year's end.

There were no reports of authorities taking action against FARDC soldiers from the 131st Battalion of the 13th Integrated Brigade who raped seven women in the village of Lubero Territory, North Kivu.

Authorities took no action against FARDC soldiers of the 2nd Integrated Brigade of Vuyinga, North Kivu, who committed a series of rapes in 2007.

The use and treatment of child soldiers by FARDC elements remained problems. There were several reports of child recruitment during the year by not only non-integrated FARDC brigades but also recently integrated brigades composed mainly of ex-CNDP members, as well as previously integrated FARDC brigades. The UNGOE reported in November to the UN Security Council that, from November 2008 to October 2009, it documented 623 cases of child recruitment attributable to the FARDC or to ex-CNDP elements of the FARDC. The UNGOE expressed concern that ex-CNDP officers in FARDC units in the east "repeatedly and deliberately obstructed MONUC from repatriating foreign fighters from their ranks." Sometimes the obstruction involved death threats. Identifying the instances as potential violations of a UN sanctions regime, the group reported that the acts of obstruction occurred most often under the command of colonels and lieutenant colonels, including Baudouin Ngaruye, Innocent Zimurinda, Antoine Manzi, a lieutenant colonel Bisamaza, and Salumu Mulenda. For example, Lieutenant Colonel Zimurinda threatened MONUC personnel who were attempting to conduct activities related to disarmament, demobilization, reintegration, repatriation, and reinsertion in the North Kivu town of Ngungu and ordered his soldiers to raise their weapons against MONUC staff. In Walikale, North Kivu, Lieutenant Colonel Manzi threatened to use force against MONUC.

The group said it had received several reports of continued attempts by CNDP-related networks to recruit individuals into FARDC units controlled by ex-CNDP officers. It also noted that it had received information of recruitment in Rwanda of combatants through the Bwindi border area between Uganda and the DRC.

MONUC Child Protection expressed concern about frequent reports of the prolonged detention of children at detention centers following their separation from armed groups. The group noted that this practice often involved the interrogation of children and inhumane treatment.

Government security forces in the east continued to force men, women, and children, including IDPs, to serve as porters, mine workers, and domestic laborers.

According to the UNGOE, FARDC units composed of mainly ex-CNDP members forcibly displaced large numbers of civilians from land in the Mushake zone of Masisi Territory, North Kivu, in order to find grazing areas for cattle being brought in from Rwanda. During the period of Kimia II operations, several thousand persons, either refugees from camps in Rwanda, economic migrants from Rwanda, or IDPs from other areas in the DRC, trickled back to reoccupy contested land in the Kivus, exacerbating ethnic and land-based tensions among local communities.

Abuses by Armed Groups Outside Central Government Control.—Illegal armed groups committed numerous serious abuses, especially in rural areas of North and South Kivu and Orientale during the year. Such groups killed, raped, and tortured civilians, often as retribution for alleged collaboration with government forces.

Armed groups maintained and recruited child soldiers, including by force, sometimes from schools and churches, and sometimes killed, threatened, and harassed humanitarian workers. In March seven UN special rapporteurs and representatives collectively reported that Mai-Mai groups held the highest number of children in their ranks, followed by the CNDP, the latter of which was integrated into the FARDC at the beginning of the year. According to the December 2008 report by the UNGOE, the most active commanders responsible for recruitment of child soldiers belonged to the CNDP (Innocent Kabundi, Sultani Makenga, Nkunda, and Ntaganda) and PARECO (its North Kivu commander, Mugabo).

Many armed groups abducted men, women, and children and compelled them to transport looted goods for long distances without pay. On occasion, armed groups also forced civilians to mine. Armed groups forced women and children to provide household labor or sexual services for periods ranging from several days to several months. Armed groups in conflict-affected areas in the east used children, including child soldiers, for forced labor in mines.

Armed groups in parts of the east sometimes detained civilians, often for ransom. They continued to loot, extort, and illegally tax civilians in areas they occupied.

There were no credible attempts by armed groups to investigate abuses allegedly committed by their fighters.

In May 2008 Belgian authorities arrested former vice president Bemba, who was transferred in July 2008 to the ICC in The Hague to face four counts of war crimes and two counts of crimes against humanity for alleged actions in the Central African Republic in 2002-03. He remained in pretrial custody at year's end.

National Congress for the Defense of the People (CNDP).—In January Rwandan officials arrested General Laurent Nkunda, who remained in Rwandan custody at year's end, and CNDP chief of staff General Bosco Ntaganda became the leader of the CNDP. On January 16, the government and the CNDP announced an alliance, and Ntaganda agreed to rapidly integrate the CNDP into the FARDC. In addition the CNDP agreed to transform itself into a political movement. Integration of the CNDP into the FARDC was uneven, with large numbers of the CNDP continuing to operate within their old command and control structures. This ambiguous and incomplete integration contributed to impunity within the CNDP.

No action was taken against CNDP combatants for any of the following alleged human rights abuses, all of which were committed prior to the CNDP's integration into the FARDC in 2009: arbitrary execution in January 2008 by CNDP elements of at least 30 civilians in the vicinity of Kalonge, North Kivu; abduction of 15 civilians from Kitchanga, North Kivu, and related abuses by 15 CNDP combatants in January 2008; the arbitrary arrest, illegal detention, and beating of four civilians in Karuba, North Kivu, by CNDP elements in April 2008; the summary execution of three children by CNDP colonel Sultani Makenga during August and September 2008; the killing of an Italian aid worker in December 2008 by an unidentified armed group in CNDP-held territory in Rutshuru, North Kivu; or the December 2008 cases of aggressive and forcible recruitment of children by the CNDP for use as combatants, bodyguards, and porters.

In September the UNJHRO released an investigative report on the deaths of civilians during and following the November 2008 fighting in the North Kivu town of Kiwanja between CNDP and local Mai-Mai combatants. The UNJHRO concluded that, after the intense fighting between Mai-Mai combatants and the CNDP had ended and the Mai-Mai had retreated from Kiwanja, CNDP elements conducted targeted reprisal killings of the villagers, mainly young men whom they suspected of belonging to or supporting the Mai-Mai. The UNJHRO confirmed 67 arbitrary executions perpetrated by the CNDP. However, unconfirmed allegations received by UNJHRO human rights officers suggested that the number of victims could be much higher. (Other human rights groups reported in 2008 that as many as 200 civilians may have been killed during and after the fighting between CNDP and Mai-Mai combatants.) In addition the UNJHRO received testimonies alleging that the CNDP burned homes and a police station, raped a woman, arbitrarily arrested and detained civilians, abducted 23 men and boys to forcibly recruit them as combatants, and dismantled camps for IDPs in and around Kiwanja after the CNDP took over local administration. The UNJHRO also received allegations of abuses by other armed groups in Kiwanja (see subsections further below on abuses by the Mai-Mai and FDLR) and offered conclusions and recommendations regarding MONUC military personnel stationed in Kiwanja during the events (see section 5).

The Democratic Forces for the Liberation of Rwanda (FDLR).—The FDLR continued to be led by individuals responsible for fomenting and implementing the Rwandan genocide. Between 6,000 and 8,000 FDLR fighters remained in the provinces

of North and South Kivu. According to MONUC, 1,522 FDLR combatants opted to voluntarily demobilize and return to Rwanda during the year.

Following the launch of operation Umoja Wetu in January, FDLR forces began to attack dozens of villages and towns across North and South Kivu. According to HRW, between late January and September, the FDLR deliberately killed at least 701 civilians in North and South Kivu; more than half of the victims were women and children. Between January and October, the FDLR committed an average of 50-60 killings per month, compared with fewer than 10 killings per month in 2008, according to UNSRESAE Alston.

While being pursued by the RDF and FARDC on January 25-27, FDLR forces in Masisi Territory (North Kivu) blocked village roads and killed those who tried to flee. FDLR combatants also abducted scores of civilians as hostages, seemingly for use as “human shields” against the impending attack; however, when the hostages tried to escape as Umoja Wetu forces began attacking the FDLR’s Kibua headquarters on January 27, FDLR combatants shot and hacked to death many of them.

During the year the FDLR committed a number of mass killings. For example, on April 12, the FDLR attacked the Mianga village in the Waloaluanda area. According to HRW, FDLR attackers decapitated the local chief and killed three other local authorities whom they accused of collaborating with the FARDC. Over the days that followed, the FDLR deliberately killed a further 41 civilians, injured many others, and then burned the village to the ground.

On May 10, machete-wielding FDLR combatants shot, hacked, and burned to death at least 96 civilians, including 25 children, in Busurungi, Waloaluanda (North Kivu), largely in retaliation for the killing of Rwandan Hutu refugees by FARDC soldiers at Shalio two weeks before. The FDLR attackers then destroyed Busurungi, burning to the ground 702 houses, three health centers, and several schools and churches, according to HRW.

Between January and September 2009, the FDLR destroyed at least 7,051 homes and other structures and perpetrated 290 cases of sexual violence in North and South Kivu in areas affected by military operations. According to HRW, on March 25, in the Ziralo area of Kalehe Territory, seven FDLR combatants gang-raped a 60-year-old woman. When her daughter resisted being raped, the attackers shot and killed her.

During the year scores of women were abducted and forced to serve as sex slaves in FDLR camps, where they were raped repeatedly for weeks or months at a time.

According to the November report by the UNGOE, there was strong evidence that “the FDLR continues to benefit from residual but significant support from top commanders of the FARDC, particularly those officers in the 10th military region (South Kivu).” The UNGOE also found that there was “continued diversion of FARDC military equipment to nongovernmental armed groups, notably the FDLR.”

The FDLR took no credible action to investigate or address human rights abuses allegedly committed by its members, including FDLR members responsible for the following reported abuses: the January 2008 killing of the village chief of Kilali, North Kivu; arbitrary execution of three civilians in Tchanishasha, South Kivu, in March 2008; or the killing of three residents of Kabunga, North Kivu, in March 2008.

On November 17, authorities in Germany arrested the FDLR president, Ignace Murwanashyaka, and his deputy, Straton Musoni, for their role in alleged war crimes and crimes against humanity committed by FDLR forces under their command in eastern Congo between January 2008 and July 2009.

In its September report about abuses committed in Kiwanja, North Kivu, during and after clashes involving CNDP and Mai-Mai combatants in November 2008, the UNJHRO highlighted testimonies it collected alleging that FDLR combatants executed seven individuals and raped four women in Kiwanja.

Ituri District Militia Groups.—Despite the signing of a 2006 cease-fire agreement between militias in the Ituri District of Orientale, including the Front for National Integration (FNI), the Congolese Revolutionary Movement, the Front for Patriotic Resistance in Ituri (FRPI), and the government, the FRPI refused to participate in the peace process and was implicated in abuses committed against civilians in Ituri District as fighting continued during the year.

On March 31, the Popular Front for Justice in the Congo (FPJC), which splintered from the FRPI in October 2008, attacked villages in the Irumu area of Ituri District, which was followed by a counterattack by FRPI fighters, leading to the displacement of thousands of civilians. On April 12-30, the FARDC, with logistical support from MONUC, conducted Operation Iron Stone in southern Irumu, during which it recaptured villages from the rebels. In July the FARDC conducted another operation against the FPJC, which led to further displacement of civilians and the suspension of five NGOs working in the area. By September further attacks by rebels had im-

peded access by humanitarian actors and increased the number of displaced persons by 75,000 over the preceding 12 months, according to a UN official.

Abuses by militias in Ituri were more often acts of banditry, rather than politically or ethnically motivated violence.

There were no credible reports of action taken by rebel leaders in Ituri District against those responsible for the following abuses: the January 2008 attack on villages in and around Lalo and Djurukidogo in Ituri District by FNI combatants, who burned children to death and kidnapped individuals; and attacks by FPRI members on local populations in Tchei and other villages of Orientale in July and September 2008.

The UNJHRO reported that in February 2008 authorities arrested Mathieu Ngudjolo, a former senior FNI commander, and transferred him to the ICC in The Hague. His war crimes and crimes against humanity charges included murder, sexual slavery, and using child soldiers in hostilities. At year's end he was awaiting trial.

During the year no action was taken against former Ituri warlord Bosco Ntaganda, for whom the ICC issued an arrest warrant in April 2008 for the enlistment, conscription, and active use of children in hostilities between 2002 and 2003. In January Ntaganda became the leader of the CNDP and, following an agreement with the government, a member of the FARDC.

During an ICC trial that opened on November 24, Mathieu Ngudjolo and Germain Katanga both pleaded not guilty to charges that they directed an attack in 2003 on a village where 200 civilians were killed. The trial continued at year's end. In 2007 the government transferred Germain Katanga, a former FRPI leader, to the ICC on various charges of war crimes and crimes against humanity, including killings, using child soldiers, and forcing women into sexual slavery.

Former Ituri militia leader Thomas Lubanga, whom the government surrendered to the ICC in 2006, pleaded not guilty to various charges when the ICC began his trial in January for enlisting and conscripting child soldiers. The prosecution ended its case during the year, but the trial continued at year's end.

No additional information was available regarding the case of Yves Kawa Panga Mandro, alias Chief Kawa, a former Ituri militia leader convicted in 2006 for crimes against humanity in 2003. In February 2008, the Kisangani Court of Appeal, citing the 2005 amnesty law, acquitted Kawa. According to the UNJHRO, the appeals judge ruled that the prosecution had made a number of errors in the case. However, Kawa remained in detention in the CPRK prison in Kinshasa while the prosecutor appealed the decision of the appeals court to the High Military Court in Kinshasa.

Mai-Mai.—Various Mai-Mai community-based militia groups in the provinces of South Kivu, North Kivu, and Katanga continued to commit abuses against civilians, including killings, abductions, and rapes. According to the UNGOE, the use of children as soldiers by PARECO and other Mai-Mai groups in North Kivu Province was endemic.

Some Mai-Mai groups, including PARECO, were part of the March 23 agreement and were integrated into the FARDC during the year. However, other Mai-Mai groups remained outside the peace process, and some allied with the FDLR.

During the year various Mai-Mai groups continued to commit abuses against civilians, including the recruitment and use of children for use as soldiers. For example, in and around the isolated Walikale Territory town of Otobora, near the border separating North and South Kivu, a group of Mai-Mai known as the Kifuafua committed abuses, including rape and arbitrary arrest, of villagers in the area, often on the charge of collaborating with the FDLR. During July and August, the Mai-Mai Kifuafua, who claimed to protect inhabitants from FDLR elements in the nearby forests, allegedly raped 10 women, all of whom were going to their fields to extract palm oil, in or near the villages of Katatwa, Kilongote, Mifuti, and Nianga. Mai-Mai Kifuafua combatants also continued to maintain child soldiers in their ranks; collected "taxes" at illegal road barriers; cut down bridges across the nearby Luhoho river (reportedly to prevent FDLR attacks), which significantly reduced food security; and forcibly occupied homes and stole livestock from villagers. The group had agreed to integrate into the FARDC early in the year, but by October they remained unintegrated and expressed frustration over what they perceived as a failure of the integration process. There was no government presence in the area, and there were no credible efforts by the group's leaders to hold perpetrators accountable.

Low-intensity clashes between some Mai-Mai groups and the FARDC continued during the year, displacing persons and causing insecurity.

Authorities took no action against PARECO combatants, who allegedly raped a woman, stabbed a 17-year-old girl, and arbitrarily executed six other civilians during an attack on Luwuzi, North Kivu, in March 2008.

In its September report about abuses committed in Kiwanja, North Kivu, during and after clashes involving CNDP and Mai-Mai combatants in November 2008, the UNJHRO highlighted evidence of two civilian deaths and 50 persons injured during the combat. In addition, the report included testimonies alleging that, outside the context of combat, Mai-Mai combatants killed at least one civilian and abducted several persons in Kiwanja. The UNJHRO also concluded that the CNDP committed targeted executions of civilians (see preceding subsection on CNDP abuses).

According to the UNJHRO, on June 3, the military tribunal of Kisangani convicted five Mai-Mai militiamen, including Colonel Thomas, who led the group, for crimes against humanity, including rape, in relation to the 2007 collective rape of 135 women in Lieke Lesole, Opala Territory, and sentenced them to 30 years' to life imprisonment. The court also ordered them to pay \$2,500 per victim of violence and \$10,000 per victim of rape for damages. They remained in prison at year's end.

There were no further developments in the trial of Katanga Mai-Mai leader Gideon for war crimes and crimes against humanity.

Allied Democratic Forces/National Army for the Liberation of Uganda (ADF/NALU).—MONUC officials said members of ADF/NALU, a Ugandan rebel group active in northern North Kivu Province, engaged in petty theft and extortion throughout the year.

Lord's Resistance Army (LRA).—The LRA, which relocated from Uganda to the DRC's Garamba National Park (Orientale Province) in 2005, was responsible for killing, raping, and kidnapping hundreds of persons in the DRC, Central African Republic, and Sudan as it continued to seek the overthrow of the Ugandan government. The LRA continued to hold children it had forcibly abducted.

Between September 2008 and June 2009, the LRA killed at least 1,200 persons, abducted an estimated 1,400, including 600 children and 400 women, and displaced a total of approximately 230,000 people in Orientale, according to a December report by the UNHCHR.

Rudia II, the FARDC-led operation against the LRA, was launched on March 26 in cooperation with the Ugandan People's Defense Forces and with logistical support from MONUC. LRA attacks continued throughout the year, resulting in executions, abductions, and sexual violence, although the level and intensity of the attacks decreased as the group fragmented into smaller units.

Between September and December, MONUC received reports that 83 civilians had been killed by the LRA, and in October humanitarian partners reported 21 LRA attacks in Haut and Bas Uele, Orientale. Local authorities reported an increase in "undisciplined behavior" by FARDC elements following the replacement of FARDC GR units with newly integrated FARDC units in the context of the Rudia II operations.

The UNSRESAE underlined that the international community had paid insufficient attention to the security needs of Orientale. He urged the development of more-timely reporting on major incidents and killings and expressed regret that the level of communication and outreach between MONUC and the local population in Orientale was inadequate. According to UNSRESAE Alston, "far more should have been done by the government and by MONUC to prioritize civilian protection in planning the military operations [Rudia II]."

There were no credible attempts by LRA leaders to prevent abuses or punish combatants for past abuses.

The LRA continued to attack local villages and forced citizens to flee in Dungu Territory, Orientale. The UNHCR estimated that there were more than 296,600 internally displaced persons in the territory by late December.

Abuses by UN Peacekeepers.—A number of sexual exploitation and abuse cases by MONUC peacekeepers were under investigation. However, the monthly rate of allegations had declined since 2005.

In August 2008 the United Nations Office of Internal Oversight Services made public the results of an investigation wherein it accused Indian peacekeepers posted in the DRC in 2007 and the first part of 2008 of child abuse, indulging in a child prostitution ring near Masisi, North Kivu Province, and helping to organize the ring. The Indian government promised its own thorough investigation and to bring to justice those found guilty. No additional information was available.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government restricted these rights in practice. Although severe abuses against journalists and press organs decreased significantly from 2008, overall freedom of the press declined during the year. The government intimidated journalists and publishers into practicing self-censorship.

Following an assessment visit to the country in June, the UN special rapporteur on the situation of human rights defenders, Margaret Sekaggya, said journalists and other human rights defenders “face illegitimate restrictions of their right to core freedoms—freedoms of opinion and expression” and underlined that the country’s “defenders, in particular journalists, who report on human rights abuses committed by state and nonstate actors are killed, threatened, tortured, or arbitrarily arrested and their offices raided.” In a report to the UNHRC with six other UN special rapporteurs and representatives in March, Sekaggya urged the government to adopt two pending bills that would contribute to the better exercise of the right of freedom of opinion and decriminalize press offenses.

Generally individuals could privately criticize the government, its officials, and private citizens without being subject to official reprisals. However, on June 3, ANR agents arrested Patrick Mukengeshay, director of Radio Television Amazone in Kananga, Kasai Orientale, for having broadcast a press statement by a human rights NGO alleging abuse of power by the ANR. He was questioned and held for six hours, then released without charge. Authorities took no action against the responsible ANR agents in Goma who, in February 2008, arbitrarily arrested, detained, and mistreated for several days a member of the Union for Democracy and Social Progress/Goma for discussing politics with local citizens.

A large and active private press functioned throughout the country, and the government licensed a large number of daily newspapers to publish. The government required every newspaper to pay a license fee of 250,000 Congolese francs (approximately \$280) and complete several administrative requirements before publishing. Many journalists lacked professional training, received little, if any, salary, and were vulnerable to manipulation by wealthy individuals, government officials, and politicians who provided cash or other benefits to encourage certain types of articles. Many newspapers remained critical of the government, and many others showed bias toward it or supported particular political parties. The government press agency published the Daily Bulletin that included news reports, decrees, and official statements.

Radio remained the most important medium of public information due to limited literacy and the relatively high cost of newspapers and television. More than 350 privately owned radio and television stations operated independently, according to the transitional state media regulatory body. The state owned three radio stations and one television station, Congolese National Radio-Television (RTNC). The UN operated Radio Okapi, which was the only nationwide radio network. The president’s family also owned and operated television station Digital Congo. Political parties represented in the government could generally gain access to RTNC.

Security forces did not generally arrest or harass foreign journalists; however, during the year government authorities informed foreign journalists that the military code of justice (criminal penalties, including imprisonment) would be applied to any foreign journalists who committed press offenses, causing international journalists to express concern over their ability to report on sensitive subjects such as the conflict in the east and corruption.

Security forces arrested, harassed, intimidated, and beat local journalists because of their reporting. In its annual report on press freedom, domestic media watchdog Journalist in Danger (JED) documented 17 cases of assault against journalists during the year, which represented a significant decrease in the number of attacks on journalists compared with 2008. On March 3, a dozen police officers beat Kathy Katayi, a reporter for Radio Okapi in Kananga, Kasai Occidental, and shoved her to the ground. Authorities had not taken action as of year’s end.

On August 7, an ANR agent assaulted Paulin Munanga, a Radio Okapi reporter in Lubumbashi, while Munanga was covering a demonstration by human rights activists and confiscated his belongings. His belongings were later recovered at the provincial governorate office. There were no reports that either Munanga or his assailant was arrested; no additional information was available.

JED documented 23 cases of journalists being arrested or detained during the course of their work. For example, on March 15, police arrested Coco Tanda and representatives of local NGOs for having organized a march and a sit-in to protest what they perceived as the forced resignation of National Assembly President Vital Kamerhe. Tanda was held for 48 hours before being released.

During the year several journalists received anonymous threats. For example, on September 9, in Bukavu, two female journalists for Radio Okapi received death threats from SMS, while another female Bukavu journalist for Radio Maendeleo was also named as a target. Jeff Saile, editor of the Kinshasa weekly *Le Barometre*, received a death threat directed at his entire family after publishing an article on alleged embezzling in the finance ministry.

Authorities took no action against Kinshasa police officers who in January 2008 arrested reporter Maurice Kayombo from Big Stakes magazine and detained him for 34 days for reporting “damaging allegations” against Christophe Kanionio, secretary-general of the Mining Ministry.

No action was taken against the ANR agents who in July 2008 raided the privately owned television station Tele Kindu Maniema and arrested program host Mila Dipenge and a cameraman, both of whom were released the following day.

Authorities took no action against the Mai-Mai militiamen who in November 2008 kidnapped and robbed Belgian journalist Thomas Scheen, his interpreter Charles Ntiricya, and his driver Roger Bangue in Kiwanja, North Kivu, before eventually releasing them.

No action was taken against the ANR agents who arrested and questioned five journalists from the privately owned television station Raga TV in Kinshasa in November 2008.

In November the UNJHRO released a report on a May 2008 appeals trial that upheld a death sentence for three civilians convicted of the 2007 murder of Radio Okapi journalist Serge Maheshe in Bukavu, South Kivu. The report noted “numerous breaches of the fundamental guarantee of the right to a fair trial.” The report also highlighted the court’s refusal to investigate other credible leads and motives for the killing, its refusal to order further investigation, and its refusal to order an autopsy or a ballistics test. The appeals trial acquitted two of Maheshe’s friends who were found guilty at the original trial; in 2007 the alleged gunmen recanted their accusations against Maheshe’s friends, claiming the military court had bribed them to make the accusation.

Popol Ntula Vita, a reporter for the weekly *La Cite Africaine*, reappeared in Kinshasa after an out-of-court settlement was reached with the employees in Bomahe, whom he had accused of embezzlement.

No action was taken against the local police chief for the 2007 beating of reporter Nelson Thamba of Community Radio Moanda.

The three men in police uniforms who shot RTNC broadcast journalist Anne-Marie Kalanga and her brother in 2007 were arrested and remained in prison.

Military authorities took no action against security forces responsible for the abuse of journalists in 2007.

The National Media Regulatory Commission, a quasigovernmental organization mandated by the earlier transitional constitution, continued to operate in the absence of a successor body. A law establishing a permanent agency was signed by President Kabila on December 31.

In its end-of-year report, JED criticized the minister of media and communications, whose statements were “barely veiled threats” against the press, while his decision to cut off the signal of Radio France International throughout the country and insist that international journalists be subject to the penal code were not supportive of press freedom. JED also identified the ANR as “the most repressive agency against press freedom,” as it accounted for 26 of the report’s 75 documented incidents of attacks against the press.

In September 2008 Communications and Media Minister Emile Bongeli signed a decree shutting down five Kinshasa television stations for failing to submit administrative documents required by the press law. The decree banned Africa TV, Couleurs TV, Radio Lisanga TV, Business Radio Television-Africa, and Canal 5. JED charged that the decree provided no legitimate reason for closing the stations and that the ban was issued to silence the opposition. Africa TV and Couleurs TV were owned by opposition figures Azarias Ruberwa and Zahidi Ngoma, respectively. Radio Lisanga TV was owned by opposition Senator Roger Lumbala. Later in the month, the communications minister reauthorized all the stations except Canal 5 to recommence broadcasting. No additional information was available.

During 2008 national and provincial governments continued to use criminal defamation and insult laws to intimidate and punish those critical of the government.

JED documented 16 cases of sanctions and 12 incidents of censorship during the year. For example, during coverage of the controversy in March over National Assembly president Kamerhe, there was a temporary interruption of broadcasts by multiple channels as well as harassment of newspaper street vendors by police.

In its annual report on press freedom, JED recorded one killing of a journalist by unknown persons and 17 cases of threats or harassment during the year.

On August 22, Bruno Koko Chirambiza, a journalist with Radio Star in Bukavu, was killed by bandits while on his way home from a wedding. His friend, who was present during the attack and escaped unharmed, was arrested. The trial began on December 30.

In November 2008 unknown assailants in Bukavu shot and killed Didace Namujimbo, a journalist for Radio Okapi. According to BVES, three suspects had

been arrested and detained in Bukavu prison, but local authorities had not set a trial date.

In May 2008 PARECO leader Captain Ndaliko warned a journalist with RTNC's local affiliate in North Kivu that "I will kill you before the International Criminal Court arrests us," according to JED. In April 2008 RTNC had broadcast an interview with three child soldiers, who had fled from PARECO forces in Kirumba, North Kivu.

There were no developments in the 2007 killing by unidentified armed men of independent reporter and photographer Patrick Kikuku in Goma, North Kivu.

According to JED's annual report on press freedom, there were 31.8 percent fewer press freedom abuses, such as murder, assault, arbitrary arrest and detention, threats, and illegal sanctions or censorship, during the year than in 2008. Despite the decrease in abuses, JED did not observe an improvement in the overall state of press freedom or content of press reports. The NGO underlined that forces working to restrict press freedom have become more subtle and more effective while "methods of repression have become softer," leading journalists to increasingly resort to self-censorship. Following a series of killings of journalists since 2005, journalists have become afraid to address in a professional manner certain difficult or sensitive topics, such as the war in the east and corruption. In addition JED emphasized that economic and political pressure restricted press freedom and expressed concern about the continuing trend of politicians and government officials hiring journalists as advisors.

During the year radio journalists, particularly those in Bukavu, South Kivu, continued to fear for their safety. Journalists often received anonymous death threats from callers, and many journalists continued to be concerned by the lack of serious investigation and judicial action by authorities against the perpetrators responsible for multiple journalist killings since 2005. Many journalists said they expected harassment would continue and possibly worsen as the 2011 elections drew nearer. The Congolese Union of Press Journalists encouraged journalists to follow specific safety precautions for working after dark and was establishing a safe house for journalists who were required to work in the evening.

Internet Freedom.—The government did not restrict access to the Internet or monitor e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Private entrepreneurs made Internet access available at moderate prices through Internet cafes in large cities throughout the country.

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

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The constitution provides for freedom of peaceful assembly; however, the government sometimes restricted this right.

The government required organizers of public events to register with local authorities in advance; to deny authorization, authorities must do so in writing within five days of being notified of the planned event. Security forces often acted against unregistered protests, marches, or meetings. For example, police prevented members and supporters of the Union for Democracy and Social Progress from holding a rally.

During 2008 security forces occasionally arrested demonstrators. For example, in February 2008 ANR agents arrested and briefly detained 30 persons following a demonstration at the central market in Kisangani, Orientale, according to the UNJHRO.

No action was taken against security forces responsible for the 2007 killings of demonstrators in Bas-Congo or the beatings of 11 journalists who accompanied the opposition demonstrators.

Freedom of Association.—The constitution provides for freedom of association; however, in practice the government sometimes restricted this right. During the year several domestic NGOs were denied authorization to operate (see section 5).

c. Freedom of Religion.—The constitution provides for freedom of religion, and the government generally respected this right in practice, provided that worshippers did not disturb public order or contradict commonly held morals.

The law provides for the establishment and operation of religious institutions and requires practicing religious groups to register with the government; however, unregistered religious groups operated unhindered. Registration requirements were simple and nondiscriminatory.

On the night of December 5-6, armed bandits in Kabare, South Kivu, killed a Catholic priest. Two days later two nuns were shot, one fatally. At year's end, authorities were investigating. There were indications that the killings could have been politically motivated, as the perpetrators did not steal anything.

There were no reports that persons were detained or imprisoned on the basis of their religion. However, the government continued to hold Father Masirika, a Catholic priest, in prison in Kinshasa without trial on charges of participating in an insurrection movement.

There was no investigation into the use of excessive force by security forces against the BDK in Bas-Congo in early 2008, where police reportedly killed at least 100 BDK adherents and razed BDK houses and temples (see section 1.a.).

Societal Abuses and Discrimination.—The country has a very small Jewish population, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation; however, the government sometimes restricted these rights.

Security forces established barriers and checkpoints on roads, at ports, airports, and markets, ostensibly for security reasons, and routinely harassed and extorted money from civilians for supposed violations, sometimes detaining them until they or a relative paid. The government forced travelers to pass through immigration procedures during domestic travel at airports, ports, and when entering and leaving towns.

Local authorities continued to extort taxes and fees from boats traveling on many parts of the Congo River. There were also widespread reports of FARDC soldiers extorting fees from persons taking goods to market or traveling between towns.

There were reports of attempts by DGM officials to demand that foreigners not carrying passports during the year pay fines, even though the law does not require foreigners to do so.

Security services sometimes required travelers to present official travel orders from an employer or government official.

The significant risk of rape by soldiers and armed groups, coupled with government inability to secure eastern territories, effectively restricted freedom of movement by women in many rural areas, particularly in the east.

Passport issuance was irregular and often required payment of substantial bribes. The law requires a married woman to have her husband's permission to travel outside the country.

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

Internally Displaced Persons (IDPs).—There were more than 2 million IDPs in the country, including 881,000 in North Kivu, 700,000 in South Kivu, and 444,000 in Orientale (see section 1.g.).

The government did not provide adequate protection or assistance to IDPs, who were forced to rely heavily on humanitarian organizations. The government generally allowed domestic and international humanitarian organizations to provide assistance to IDPs; however, lack of security and roads impeded their efforts. While the majority of IDPs in North Kivu stayed with relatives and friends, tens of thousands stayed in 70 "spontaneous" IDP sites and 16 IDP camps managed by international NGOs and coordinated by the UNHCR. An estimated 120,000 IDPs lived in churches and schools. Displaced women and children were extremely vulnerable to abuses by armed groups, including rape and forced recruitment.

In mid-September there was a sudden exodus of between 58,000 and 65,000 residents of six IDP camps in and around Goma, North Kivu, into Masisi Territory, North Kivu. A foreign assistance agency conducted a study of the mass departures and determined that a variety of factors were responsible. There were reports of excessive use of violence and the violation of humanitarian principles during the camps' closure. Some IDPs claimed that government agents pressured them to depart and cited cuts in their food rations. Other IDPs, as well as the government and UNHCR, cited the start of the school year, the coming rainy season, improved security in their zones of origin, and fears that their land would be confiscated as reasons for the exodus. The sudden camp closures damaged relations among the North Kivu government, humanitarian organizations, and displaced populations. While some of the IDPs returned to secure environments and received assistance, others stayed in transit sites and with host families.

IDPs in North Kivu were victims of abuses by all factions engaged in fighting, including the FARDC, and by other civilians. Abuses in camps around Goma included killings and death threats, particularly by demobilized fighters, as well as abduction and rape. According to UNICEF, one third of the more than 1,100 women and girls raped per month in the east were in North Kivu, the majority of them IDPs. Some IDPs were also reportedly subjected to forced labor (see section 1.g.).

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and the government had established a rudimentary system for providing protection to refugees. In practice it granted refugee and asylum status to individuals as necessary and provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The government provided temporary protection to an undetermined number of individuals who may not qualify as refugees under the 1951 convention and its 1967 protocol.

The government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers with welfare and safety needs. The government provided assistance in enabling the safe, voluntary return of refugees to their homes by allowing their entry into the country and facilitating their passage through the immigration system.

From January to November, Angola expelled 85,000 illegal Congolese immigrants to Bas-Congo. Starting in June the number of persons expelled into Bas-Congo gradually increased and reached a peak of 3,000 a day between late September and early October. The DRC government retaliated by expelling 30,000 Angolans, many of whom had refugee status. MONUC verified that DRC authorities conducted their expulsions peacefully. However, expelled Congolese entering the DRC reported Angolan security forces committed abuses against them.

Government authorities did not provide adequate security to refugees.

Unlike in the previous year, there were no reports that CNDP elements recruited children from refugee camps in Rwanda to be used as combatants or forced laborers in the east, according to representatives of MONUC, the UNHCR, and local and international NGOs.

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

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through credible presidential, parliamentary, and provincial elections based on universal suffrage. Presidential and parliamentary elections in June 2006 and a presidential runoff in October 2006 were judged to be credible by the Carter Center and the EU Observer Mission.

Elections and Political Participation.—In Equateur, the country's political opposition coalition lost its only governorship in an election by members of the Equateur provincial assembly in November. Provincial assembly members elected a candidate aligned with the central government's coalition; the opposition alleged that the ruling party bribed voters.

The 11 new provincial assemblies chose 108 candidates for five-year terms in the national Senate in 2007. The elections took place peacefully but were marred by credible allegations of vote buying.

According to the UN secretary-general's December report to the UN Security Council, during the year the Senate nominated two members to participate in an ad hoc committee to develop recommendations on constitutional reforms. The committee was allegedly to review the duration and number of presidential terms, as well as provisions pertaining to the decentralization process and the judiciary. Several NGOs and foreign diplomats expressed concern over the possibility that the committee would approve, under executive branch pressure or guidance, constitutional revisions that would, in effect, increase executive powers. Other sources in parliament and government dismissed these reports as rumors, saying that the committee was charged primarily with examining the technical issues of decentralization. As of year's end, there was no further action on this issue and no additional information.

In September, in preparation for planned local elections, the Independent Electoral Commission (CEI) completed the first round of voter registration updates for Kinshasa, issuing an estimated 1.4 million new voter cards. However, a similar process for the country's other 10 provinces continued to be delayed, as the government had not yet disseminated to the CEI the official list of constituencies for the local elections or provided funding. In December the UN secretary-general reported to the UN Security Council that such delays cast doubt over whether national elections, scheduled for 2011, could be held as planned. In addition, according to other sources, due to a change in the voter registration methodology, it was determined that the CEI would need to conduct another round of voter registration in Kinshasa. Based on new methodology adopted by the CEI in December, voter cards issued for the 2006 elections would no longer be valid and would need to be replaced.

In December President Kabila announced that local elections, originally scheduled to be held in 2008, would be delayed until February 2011 due to logistical challenges and would be followed by presidential and legislative elections later in 2011. Some observers expressed concern over the government's capacity, even with international assistance, to ensure the orderliness and credibility of multiple polls in a single year. In addition, uncertainty remained over the decentralization process. Parliament passed the decentralization law, but other crucial pieces of legislation to support the decentralization process were pending, preventing the CEI from proceeding with voter registration.

During the year press reports indicated that the government had begun exerting pressure on MONUC and the UN Security Council to withdraw the peacekeeping force from the country prior to the 2011 national elections. According to the UN secretary-general's December report to the UN Security Council, President Kabila requested the UN to submit a proposal, including a calendar, for the progressive drawdown of MONUC, preferably starting by June 30, 2010, based on the evolution of the security situation. The calendar and the modalities of the drawdown would be mutually agreed between the government and the UN. UN officials, foreign diplomats, and NGOs expressed numerous concerns over the prospect of a premature MONUC withdraw. Some of the concerns related to whether, during an ongoing and fragile peace process, peaceful and credible national elections could be held without the kind of logistical and security assistance that MONUC provided for the national elections of 2006, the country's first democratic elections in more than 40 years.

A 2007 law on the status and rights of the political opposition recognizes opposition parties represented in parliament as well as those outside it and provides for their right to participate in political activities without fear of retribution. During the year political parties were able to operate most of the time without restriction or outside interference; however, there were notable exceptions. Opposition members were sometimes harassed (see section 2.a.), and police prevented members and supporters of the Union for Democracy and Social Progress from holding a rally.

In March National Assembly president Vital Kamerhe, formerly a close ally of the president, resigned his leadership position after publicly criticizing President Kabila for not consulting the legislature before he made the decision to invite the Rwandan military into the country in January for a joint military operation against the FDLR. Some UN officials, foreign diplomats, and NGOs expressed concern that the resignation reflected a setback in the capacity of the legislature to counterbalance the executive branch, while others argued that it was done legally within the framework of the constitution.

In 2008 police killed numerous supporters of the BDK during violent clashes in Bas-Congo and systematically destroyed BDK meeting places (see section 1.a.). In addition, an HRW report released in November 2008, entitled *We Will Crush You: The Restriction of Political Space in the Democratic Republic of the Congo*, drew from hundreds of interviews with government officials, diplomats, political detainees, and members of civil society between 2006 and 2008 and concluded that since the 2006 national elections, there had been disturbing signs that the government has used violence and intimidation to eliminate its political opponents and restrict democratic space.

Unlike in the previous year, there were no reports that security forces killed a member of the political opposition.

In their March report to the UNHRC, seven UN special rapporteurs and representatives expressed concern that, while the family code recognizes equality between spouses, it "effectively renders a married woman a minor under the guardianship of her husband," with one article stating that the wife must obey her husband, and that women remained underrepresented in the democratic institutions. Between 2005 and 2008 the proportion of seats held by women in parliament decreased from 12 percent to 8 percent. Women held 42 of 500 seats in the National Assembly and 47 of 690 seats in the provincial assemblies. Five of the 108 senators were women. Among the 45 government ministers and vice ministers, five were women.

Many ethnic groups, including Pygmies, were not represented in the Senate, the National Assembly, or provincial assemblies. The lack of political participation of some ethnic groups may have been a result of continuing societal discrimination. For example, the enslavement of Pygmies continued in some areas of the country (see section 5).

In March seven UN special rapporteurs and representatives reported to the UNHRC that Kinyarwanda-speaking Congolese living in the eastern part of the country or as refugees in neighboring countries continued to experience difficulty in acquiring Congolese nationality, despite a 2004 nationality law that nominally granted nationality to members of this group. This situation, which made it difficult for them to obtain electoral cards, along with majority-voting systems and the par-

ticular tailoring of voting districts, continued to contribute to a disproportionately low number of minority candidates elected to office. In their March report to the UNHRC, the seven UN special rapporteurs and representatives recommended that the government launch a campaign in the east to provide national identification and electoral cards to anyone qualifying for nationality under the 2004 nationality law and that implementation be guided by a presumption that “those who currently live [in the DRC], or have lived in the DRC prior to the armed conflict are considered nationals of the DRC.”

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption. However, the authorities did not implement the law, as corruption remained endemic throughout the government and security forces. The public perceived the government to be widely corrupt at all levels. According to the World Bank’s Worldwide Governance Indicators, official corruption was a severe problem.

Weak financial controls and lack of a functioning judicial system encouraged officials to engage in corruption with impunity. Many civil servants, police, and soldiers had not been paid in years, received irregular salaries, or did not earn enough to support their families, all of which encouraged corruption. Embezzlement of soldiers’ salaries by FARDC commanders was common and appeared to contribute to extortion, looting, and other abuses by soldiers against citizens (see section 1.d.).

Reports indicated that the mining sector continued to lose millions of dollars as a result of official corruption at all levels, including illegal exploitation of minerals by the FARDC and armed groups in the east (see section 1.g.).

In September the Senate estimated that more than 1.2 billion dollars of gold—approximately 40 tons—was exported fraudulently from the country every year and that, in the east, 80 percent of the minerals extracted were being traded illegally. The UNGOE established that “the level of fraudulent mineral exports to neighboring states has escalated significantly since 2008 and particularly since the rapprochement between Kinshasa and Kigali [Rwanda] since January 2009.”

In its November report to the UN Security Council, the UNGOE documented “fundamental irregularities” in the international gold trade between the DRC, Uganda, Burundi, and the United Arab Emirates, and gathered evidence of “inconsistent and incomplete customs declarations and procedures, as well as a lack of adequate control procedures by government customs and mining authorities. The UNGOE “received strong indications of high-level protection and in some cases complicity in the illicit gold trade by government officials.” It made several recommendations concerning the government, international corporations, and the UN Security Council (see section 1.g.).

During the year a government-initiated review of 61 mining contracts negotiated from 1997 to 2002 continued to be plagued by both numerous delays and a lack of transparency. In December 2008 the government reached new agreements with all but six of the companies under review, and in November it formally announced the completion of the process. One company continued to negotiate its contract.

The law requires the president and ministers to disclose their assets to a government committee. President Kabila and all ministers and vice-ministers did so during the year.

Corruption in the judicial and penal systems continued to be severe (see sections 1.c. and 1.e.).

There continued to be an Ethics and Anticorruption Commission, but it had little impact during the year and lacked resources, independence, and credibility. It last convened in 2007 without any significant results or findings.

Government authorities and wealthy individuals at times used antidefamation laws that carry criminal punishments to discourage media investigation of government corruption (see section 2.a.).

In February 2008 the country was accepted as a candidate in the Extractive Industries Transparency Initiative (EITI), an international voluntary initiative designed to improve governance by strengthening transparency in the extractive industries. To reach the validation stage of EITI, the country began the process of adopting and implementing various transparency principles by 2010.

The law does not provide for public access to government-held information. In practice the government did not grant access to government documents for citizens or noncitizens, including foreign media.

In his press statement in October, UNSRESAE Alston highlighted one of the factors he found to be contributing to corruption and the lack of financial accountability in the country, as well as other, broader human rights problems. According to Alston, “one of the most troubling overall issues in the DRC is the radical privatization of the state. The military is poorly paid and often not paid at all, but it is

understood that soldiers will extract their own rewards from the community, through extortion and theft...Healthcare and education are outsourced to international agencies...The privatization phenomenon relieves most of the pressure for fiscal reform and accountability. The government needs only to find resources for itself. Until the problem is confronted robustly, the ability of the state to provide security, ensure justice, and respect human rights will continue to erode dramatically. And the billions of dollars provided by the international community will have yielded no sustainable institutional framework.”

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights organizations investigated and published findings on human rights cases. However, security forces continued to harass, beat, intimidate, and arbitrarily arrest and detain local human rights advocates and NGO workers, and government intimidation of domestic human rights defenders worsened. In addition prison officials consistently denied access by NGOs and UN officials to detainees in certain types of facilities. The government continued to allow international humanitarian agencies access to conflict zones, permit many UN human rights officers to investigate abuses, and invite UN special rapporteurs and representatives to visit the country during the year to assess the human rights situation and provide technical assistance. However, the government took no significant steps to implement their recommendations. In addition there was an increase in instances in which authorities, particularly security forces, obstructed the work of UN human rights monitors and special rapporteurs and, in some instances, FARDC units in North Kivu made death threats against UN personnel.

The main independent Kinshasa-based domestic human rights organizations included ASADHO, Voice of the Voiceless, Committee of Human Rights Observers, JED, and the Christian Network of Human Rights and Civic Education Organizations. Prominent independent organizations operating in areas outside Kinshasa included Heirs of Justice in Bukavu, Lotus Group in Kisangani, and Justice Plus in Bunia, Ituri District.

Officials from the ministries of justice and human rights met with domestic NGOs and sometimes responded to their inquiries but took no other known action.

There were reports that local officials required domestic NGOs seeking to register to pay bribes. During the year several domestic NGOs were denied authorization to operate, and NGOs needed authorization to hold demonstrations, despite constitutional provisions providing for freedom of peaceful assembly.

Domestic human rights NGOs were particularly vulnerable to harassment, arbitrary arrest and detention, and other abuses by security forces when reporting on—or supporting victims of—abuses by the FARDC and spotlighting the illegal exploitation of natural resources in the east. For example, on July 24, ANR agents in Katanga arbitrarily arrested and detained Golden Misabiko, president of the Katanga Province chapter of ASADHO, after ASADHO published a report implicating the provincial government in the illegal trade of uranium from the province's Shinkolobwe mine. Provincial authorities accused Misabiko of serious crimes, including defamation and threats against national security. Authorities detained Misabiko for two months in poor detention conditions despite appeals for release because of a preexisting heart condition. On September 21, a criminal court in the Katangan capital of Lubumbashi found Misabiko guilty, on the basis of limited evidence, of deliberately publishing false information and sentenced him to an eight-month suspended prison sentence followed by four months' confinement in the Kasapa central prison. Some observers expressed concerns about the fairness of the trial. Around the time of his sentencing, Misabiko fled and remained outside the country at year's end. An appeal was filed on his behalf.

On August 31, ANR agents arrested four members of the domestic NGO Friends of Nelson Mandela for the Defense of Human Rights (ANMDH), including its president, Robert Ilunga Numbi, on charges of rebellion, civil disobedience, and defamation following the publication of a communique in which Numbi condemned alleged inhumane working conditions in Bas-Congo Province; human rights organizations believed authorities arrested him because he criticized working conditions in a company owned by individuals with strong connections to the government. Authorities held Numbi for a month before granting him provisional release on October 1. As of year's end, he was awaiting trial. No additional information was available.

Authorities took no known action against FARDC soldiers who in January 2008 arbitrarily arrested, beat, and temporarily detained the president of the local human rights association in Mambassa, Orientale.

Authorities took no known action against the territorial administrator in Punia, Maniema, who, according to the UNJHRO, issued death threats in January 2008 against human rights activists who had accused local authorities of complicity in the 2002 massacre by RCD combatants of 13 civilians.

Authorities took no known action against ANR agents, who in March 2008 threatened a human rights activist in Tshimbulu, Kasai Occidental, when she sought information about a case of arbitrary arrest and detention.

Authorities took no known action against the perpetrators of the cases from 2007 in which security forces arbitrarily arrested, detained, or abused human rights workers.

During the year domestic human rights NGOs, including one that identified and liberated child soldiers from FARDC units and armed groups, received death threats from unidentified individuals. For example, on December 24, seven members of local human rights NGOs and three members of the UNJHRO in Kalemie, Katanga, received anonymous telephoned death threats. MONUC offered to help investigate and urged the government to take all necessary action to ensure the security of human rights NGOs and MONUC staff.

The government generally cooperated with international NGOs that published reports on human rights and humanitarian issues and permitted their investigators access to conflict areas. During the year President Kabila met with a representative of HRW to discuss the country's human rights situation, and several ministers met with Global Witness to exchange ideas on means to curb illegal exploitation of natural resources. However, at a July 28 press conference, the minister of communication accused HRW, Global Witness, and the International Federation of Human Rights of trying to destabilize the country and called them "humanitarian terrorists."

The government did not take adequate steps to protect international human rights NGOs from violence or harassment in the east. In July men in FARDC uniforms killed an employee of an international human rights and humanitarian organization in North Kivu (see section 1.g.).

During the year unidentified armed men killed at least one employee of an international human rights and humanitarian NGO (see section 1.g.).

In several reports submitted in September to the UPRWG, international human rights NGOs underlined concerns for the treatment of human rights NGOs in the country. The International Foundation for the Protection of Human Rights Defenders (Front Line) criticized the government for rarely conducting serious investigations of attacks against human rights defenders. Front Line also noted that a national plan for the protection and security of human rights defenders did not exist. Front Line and Amnesty International recommended that the government protect the right of human rights defenders and lawyers to conduct their work without hindrance, intimidation, or harassment; ensure that abuses of activists or journalists were fully and promptly investigated; and prosecute those found responsible.

The government cooperated with multilateral organizations in many instances. However, there were some notable problems. While authorities continued to permit international humanitarian agencies access to conflict areas, authorities denied the agencies access to certain prisons located in these areas (see section 1.g.). They also continued to consistently deny UNJHRO officers access to detainees in facilities run by the ANR and the GR in numerous areas. In October authorities in Bas-Congo, including the governor, prevented the UN special rapporteur on extrajudicial killings from holding any meetings in Kisantu or speaking with any witnesses or victims of abuses committed by security forces in 2008. Police also detained the individual who had arranged meetings for the rapporteur, who lodged an official protest with the government. He was later released after the rapporteur returned to Bas-Congo on his behalf.

In addition, there was an increase in cases of members of security forces obstructing human rights work by MONUC and the UN human rights country team. During the year FARDC units in the east, comprised mainly of ex-CNDP members, consistently denied UNICEF child protection officers access to children in their ranks and sometimes threatened them (see section 1.g.).

No action was taken against ANR agents, who in 2007 subjected two MONUC human rights officers in Uvira, South Kivu, to death threats, physical abuse, and expulsion during a joint monitoring visit to ANR holding cells.

Several senior UN officials visited the country during the year, including UN secretary-general Ban Ki-moon, UNSRESAE Alston, the special rapporteur on the situation of human rights defenders, Margaret Sekaggya, the special representative of the secretary-general for children and armed conflict, Radhika Coomaraswamy, the representative of the secretary-general on the human rights of IDPs, Walter Kalin, and a delegation of UN Security Council ambassadors.

UN officials freely criticized actions by the government during the year. In its March report to the UNHRC, a group of seven UN special rapporteurs and representatives expressed concern over the extent of impunity for abuses and made recommendations to the government regarding impunity, security sector reform, child soldiers, women's rights, illegal exploitation of natural resources, the rights of displaced persons in relation to land disputes and elections, health care for marginalized groups, and the protection of human rights defenders (see sections 1.c., 1.d., 1.e., 1.g., 2.a., 2.d., 4, and 6).

In June, following an assessment visit at the invitation of the government, the UN special rapporteur on the situation of human rights defenders, Margaret Sekaggya, issued a press statement underlining that government authorities continued to subject human rights activists to intimidation and harassment, mistreatment, arbitrary arrest and detention, and "illegitimate restrictions of their right to core freedoms," including freedoms of movement, speech, and association. Sekaggya noted with concern that government authorities and nonstate actors stigmatized human rights defenders as "enemies" or "opponents." She stated that defenders were particularly endangered when supporting victims of serious abuses, most notably sexual violence; fighting impunity, particularly by supporting the work of the ICC; and denouncing the illegal exploitation of natural resources. Sekaggya expressed specific concern over "the plight of women human rights defenders whose activities are often hindered by authorities and who may face discrimination from their male colleagues."

Sekaggya urged the government to investigate and prosecute all abuses against human rights defenders and adopt national and provincial laws, in consultation with human rights NGOs, to protect human rights defenders. She added that the government should openly "give legitimacy to the work of human rights defenders, including women defenders, and acknowledge it as human rights work." Other recommendations for the government included sensitization training for police and public condemnations of all attacks on rights workers. Sekaggya also recommended that MONUC increase the staffing and financial capacity of its human rights offices, and said the international community should help the Human Rights Ministry's programs and assist it in reestablishing offices in the provinces.

In September the UNJHRO released an investigative report on the deaths of civilians during and following the November 2008 fighting in the North Kivu town of Kiwanja between CNDP and local Mai-Mai combatants. The UNJHRO concluded that the 120 MONUC military personnel who were stationed in Kiwanja at the time of the killings "were not aware of the nature or magnitude of the situation, due to language and cultural barriers or lack of effective communication with civil society leaders in Kiwanja." The report commended the MONUC contingent's efforts to evacuate humanitarian personnel while noting that MONUC was "strongly criticized for not having protected the civilian population." The report recommended further training of MONUC personnel, the formulation of clearer criteria for exactly when peacekeepers should intervene to protect civilians, better communication between the population and peacekeepers, and an enhanced understanding of the patterns of human rights abuses. However, the report concluded that "it is unclear whether any such response would have had the necessary dissuasive impact with regards to the CNDP ... it is doubtful that MONUC would have had the capacity to protect those civilians who were arbitrarily or summarily executed by the CNDP."

The report also highlighted that, in response to lessons learned from the Kiwanja killings, MONUC's use of innovative protection tools, including the deployment of joint protection teams (JPTs) composed of UNJHRO and other UN specialists, had contributed to improved effectiveness in the area of protection (including in Kiwanja), in part by developing stronger human rights analysis and facilitating greater communication with the local population. It noted, however, the need to provide JPTs with additional civilian staff and greater training for civilian and military peacekeeping personnel in civilian protection.

In October, following his assessment visit to the country at the invitation of the government, UNSRESAE Alston criticized the government and MONUC, which provided logistical support to the FARDC in the east, for not doing more to prioritize the protection of civilians in planning two counterinsurgency operations during the year—Kimia II against the FDLR in the Kivus, and Rudia II against the LRA in Orientale. He detailed the humanitarian costs of Kimia II and concluded that "from a human rights perspective [Kimia II] has been catastrophic." He also criticized officials for preventing him from interviewing victims and witnesses of abuses allegedly committed by FARDC members in Bas-Congo between 2006 and 2008.

Alston criticized the UN Security Council's mandate for MONUC for having "transformed MONUC into a party to the conflict" in the Kivus, and creating "a conflict of interest in terms of [MONUC's] ability and willingness to investigate allega-

tions of abuses by the FARDC or by its own forces.” He further underlined “serious concerns about the measures the UN has taken to ensure that it is not implicated in the rights abuses being committed by its partners” (the FARDC). Noting that human rights reporting would always be seen by some as a hindrance to securing political reform, he also expressed concern over “the unavoidable tensions” that had developed since the UN decided in 2006 to place the UN human rights monitoring component in the country under the authority of a peacekeeping mission partly charged with securing political reforms. Alston recommended creating a new mechanism to ensure that the necessary human rights monitoring and reporting roles were improved and carried out effectively, independently, and credibly. He made other observations and recommendations regarding impunity for killings, the penal system, sexual violence, and corruption (see sections 1.a., 1.c., 1.d., 1.g., and 4).

A November report by the UNGOE presented evidence of abuses committed by government security forces and armed groups in the east, presented evidence that the government provided support for armed groups in the east, and made several recommendations, including some relating to the illegal exploitation of resources (see sections 1.g. and 4).

The government had not responded to several requests for information from various UN human rights monitoring bodies in the past. In addition, during the year the government replied to less than 7 percent of communications, including urgent appeals, from UN special procedures (rapporteurs and representatives), according to the UNHCHR. However, several members of the UPRWG commended the government for its cooperation with the UNHRC in the UPR process, including its submission of a report in September to the UNHRC following consultations with domestic NGOs. By year’s end, the government had also established a multistakeholder national commission, including domestic NGOs, to follow up on recommendations made by the UPRWG.

During the UNHRC’s UPR process, numerous domestic human rights NGOs and the government underlined the need to establish a national human rights commission.

In January Parliament created a human rights body, composed of members from both legislative chambers, to investigate abuses by security forces. It was not clear how active, effective, or independent the body was.

During the year the government cooperated with the ICC, which continued investigations into war crimes and crimes against humanity committed in the country since 2003.

The government continued to cooperate with the International Criminal Tribunal for Rwanda (ICTR), which operated freely in areas under government control, seeking several individuals indicted for involvement in the 1994 Rwandan genocide, who they believed might be in the DRC. In September the government transferred Gregoire Ndahimana, who had surrendered to authorities in August, to the ICTR in Arusha, Tanzania.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on ethnicity, gender, or religion; however, the government did not enforce these prohibitions effectively, in part because it lacked appropriate institutions.

Women.—The law criminalizes rape, but the government did not effectively enforce this law, and rape was common throughout the country and especially pervasive in conflict areas in the east. According to the UN secretary-general’s 27th report to the UN Security Council, more than 1,100 women and girls were raped each month in the east alone (see section 1.g.). The law on sexual violence, enacted in 2006, broadened the scope of the definition of rape to include male victims, sexual slavery, sexual harassment, forced pregnancy, and other sexual crimes not previously covered by law. It also increased penalties for sexual violence, prohibits compromise fines and forced marriage, allows victims of sexual violence to waive appearance in court, and permits closed hearings to protect confidentiality. It raised the age of sexual consent to 18, although the family code establishes that girls can marry at the age of 14. The minimum penalty prescribed for rape is a prison sentence of five years.

Government security forces, armed groups, and civilians perpetrated widespread and sometimes mass rape against women and girls (see section 1.g.). On March 27, the UN secretary-general reported to the UN Security Council that members of armed groups, the FARDC, and the police were responsible for 81 percent of all reported cases of sexual violence in conflict zones and 24 percent in nonconflict areas. The majority of cases were reported in North and South Kivu. The report cited a “disturbing increase of police personnel involved as perpetrators, especially against women in detention.” The UNFPA, the agency coordinating efforts against sexual

violence in the country, estimated that 200,000 Congolese women and girls had become victims of sexual violence since 1998. The UNFPA reported that 15,996 new cases of sexual violence were registered in 2008 throughout the country, including 4,820 cases in North Kivu. The number of rapes committed during the year increased, according to UN officials, foreign diplomats, and NGOs (see section 1.g.).

Statistical information on rape, often based on information from the judiciary and from agencies providing services to victims, remained fragmented and incomplete. According to UN officials and NGOs such as HRW, it was likely that most statistics on sexual violence represented only a small percentage of the real total of rapes. Victims who were unable or too scared or ashamed to seek assistance were not likely to be counted. In May Nicola Dahrendorf, a former senior advisor and coordinator on sexual violence for MONUC, estimated that less than 50 percent of women who were raped had access to health centers.

Prosecutions for rape and other types of sexual violence remained rare. According to HRW, between January and August the military justice system convicted 17 FARDC soldiers of crimes of sexual violence in North Kivu Province. HRW and several other human rights groups continued to criticize the government for failing to investigate and prosecute members of the security forces, particularly high-ranking officers, who were responsible for rape (see section 1.d.). Of the 14,200 rape cases that were registered in South Kivu between 2005 and 2007, only 287, or 2 percent of the cases, were taken to court. Both victims and the UNHRC's special rapporteur on violence against women cited widespread impunity as the main reason for sexual violence. Most victims did not have sufficient confidence in the justice system to pursue formal legal action or feared subjecting themselves to further humiliation and possible reprisal.

In December several members of the UPRWG commended the government for adopting the 2006 law on sexual violence but expressed concern over the failure to implement the law and recommended increased efforts to train judicial and law enforcement officials in its application. Several members urged authorities to make greater efforts to investigate and prosecute individuals, including high-ranking members of the security forces, who are responsible for rape.

Throughout the year, including in a report submitted in April to the UPRWG, the Women's Synergy for Victims of Sexual Violence (SFVS) and nine other North Kivu-based NGOs urged the government to modify an existing law that continued to make it extremely difficult for them to seek reparations for sexual violence. The law requires victims of sexual violence to pay the public treasury 15 percent of the amount of damages sought in advance of any judgment. According to SFVS, in the rare instances where reparations were awarded, defendants bribed judges, resulting in "lost" case files, effectively preventing the payment of reparations to victims. A group of special rapporteurs and representatives, including the UN special rapporteur on violence against women, mandated by the UNHRC to urgently examine the status of various rights in the country and provide technical assistance, reported in March that the government had been sentenced by multiple courts in the country to pay compensation to a number of women raped by state security agents; however, none of the rape survivors had received compensation.

During the year the UN special rapporteur on violence against women and the special representative of the UN secretary-general on children and armed conflict concluded that, while many perpetrators of sexual violence were armed actors (including members of the FARDC, police, and armed groups), a significant and increasing number were civilians, not only in conflict zones but also in other regions. High-level UN officials deemed this development a consequence of the climate of impunity, absence of rule of law, and the normalization of violence against women.

It was common for family members to pressure a rape victim to keep quiet, even to health care professionals, to safeguard the reputations of the victim and her family.

Victims of gender-based violence faced an enormous social stigma. After a sexual assault, many young women and girls were often labeled as unsuitable for marriage and married women were frequently abandoned by their husbands.

Some families forced rape victims to marry the men who raped them or to forego prosecution in exchange for money or goods from the rapist.

Domestic violence against women occurred throughout the country; however, there were no statistics available regarding its extent. Although the law considers assault a crime, it does not specifically address spousal abuse, and police rarely intervened in domestic disputes. There were no reports of judicial authorities taking action in cases of domestic or spousal abuse.

The constitution prohibits forced prostitution and bans prostitution of children under age 18. Although no statistics were available regarding its prevalence, adult and child prostitution occurred throughout the country, and there were reports of

women and girls pressured or forced to engage in prostitution by their families. There were reports that members of the security forces harassed or raped women engaged in prostitution.

Sexual harassment occurred throughout the country; however, no statistics existed regarding its prevalence. The 2006 sexual violence law prohibits sexual harassment, and the minimum penalty prescribed by law is a prison sentence of one to 20 years; however, there was no effective enforcement, and by the end of 2008 judicial authorities had yet to prosecute any cases.

The government respected the right of couples to decide freely and responsibly the number of children they would have and when they would have them. However, women's access to contraception remained extremely low, with only 6.7 percent of women using modern contraceptive methods. Women's access to treatment of sexually transmitted diseases, such as HIV, was not known. Recent studies did not disaggregate by gender, and the data were highly variable across geographic regions, reflecting variations in cultural norms and access to health-care services. The percentage of women seeking skilled medical assistance during child birth was high (74 percent).

Women did not possess the same rights as men under the law or in practice. The law requires a married woman to obtain her husband's consent before engaging in legal transactions, including selling or renting real estate, opening a bank account, or applying for a passport. According to UNICEF, 69 percent of widows had been dispossessed of their property. Under the law, women found guilty of adultery may be sentenced to up to one year in prison; adultery by men is subject to legal penalty only if judged to have "an injurious quality."

Women experienced economic discrimination. The law forbids a woman from working at night or accepting employment without her husband's consent. According to the International Labor Organization (ILO), women often received less pay in the private sector than men doing the same job and rarely occupied positions of authority or high responsibility.

Children.—Although the government promulgated a child protection code in January, the government's commitment to and budget for children's welfare were inadequate.

The government did not register all births immediately. According to 2007 UNICEF data, 31 percent of children were registered at birth. However, UNICEF reported that following the government's adoption of a National Plan of Action on Birth Registration in March, child birth registration had increased in Kinshasa from 37 percent to 50 percent by June. The lack of registration did not affect access to government services, as birth registration was not a prerequisite for services.

In practice primary school education was not compulsory, free, or universal, and few functioning government-funded schools existed. Fighting that resumed in August 2008 in North Kivu between government and rebel forces resulted in the closure of approximately 85 percent of all schools in the area according to UNICEF. Public and private schools generally expected parents to contribute to teachers' salaries, and parents typically funded 80 to 90 percent of school expenses. These expenses, plus the potential loss of income or labor while their children attended class, left many parents unable to enroll their children.

Primary and secondary school attendance rates for girls were lower because many parents preferred to send their sons to school, either for financial or cultural reasons.

Reports received by the UN during the year indicated that parents in conflict areas often prevented their children from going to school (where schools were functioning) because of fear that armed groups would forcibly recruit their children. The majority of schools in conflict zones were dilapidated and had been closed due to insecurity.

In a report released in February, the UNCRC welcomed the government's adoption on January 10 of the child protection code, which provides for the establishment of 180 juvenile tribunals. However, the UNCRC expressed concern over the capacity of the government to implement the code's provisions, particularly in the absence of an awareness raising campaign. The UNCRC urged the government to expedite implementation of child protection laws, increase investment in law enforcement training on child protection, adopt a comprehensive child protection action plan, establish a 24-hour child helpline as a tool for children to seek assistance and lodge complaints, establish a data base and coherent national programs for refugee and internally displaced children, and swiftly improve juvenile justice standards.

The law prohibits all forms of child abuse, but it appeared to be common. Although authorities made several arrests related to child abandonment and abuse during the year, no cases had been prosecuted by year's end.

The law does not prohibit female genital mutilation (FGM). According to the World Health Organization, isolated groups in the north practiced FGM, and approximately 5 percent of women and girls were victims.

The constitution prohibits parental abandonment of children for alleged sorcery; in practice such allegations led to abandonment and abuse. The 2009 Child Protection Law provides for a sentence of imprisonment for parents and other adults who accuse children of witchcraft.

Child abuse was an especially serious problem in the eastern conflict regions. A November 2008 report of the UN secretary-general on children and armed conflict in the country concluded that children continued to be the primary victims of the continuing conflict in the east.

In March a group of seven UN special rapporteurs and representatives mandated by the UNHRC to assess human rights in the country deemed it "alarming" that a significant percentage of the victims of sexual violence committed throughout the country were girls, and in some cases also boys. Their report to the UNHRC noted that, according to the UNFPA, of 15,996 new cases of sexual violence registered in 2008 throughout the country, 65 percent of victims were children. The report also underlined the role of civilians in child rape, including in conflict zones where a climate of near total impunity persisted. For example, of the 2,893 cases of child rape reported in conflict-affected Ituri District, Orientale, between June 2007 and June 2008, UNICEF found that 42 percent of perpetrators were members of the security forces or armed groups and 58 percent were civilians. During the same period, of the almost 2,000 cases of child rape reported in North Kivu, 70 percent of the perpetrators were members of the security forces or armed groups and 30 percent were civilians.

All parties to the conflict in the east were involved in the use of child soldiers (see section 1.g.). During the year the UNCRC expressed concern that children continued to be tried in military courts for crimes allegedly committed while they were enrolled as child soldiers in armed groups.

The law prohibits marriage of girls under age 14 and boys under 18; however, marriages of girls as young as 13 took place. Dowry payments greatly contributed to underage marriage. In some cases parents married off a daughter against her will to collect a dowry or to finance a dowry for a son. The sexual violence law criminalizes forced marriage. It subjects parents to up to 12 years' hard labor and a fine of 92,500 Congolese francs (approximately \$103) for forcing a child to marry. The penalty doubles when the child is under the age of 15. There were no reports of prosecutions for forced marriage in 2008; no additional information was available.

The minimum age of consensual sex is 14 for women and 18 for men, and the 2006 law on sexual violence prohibits and defines penalties for prostitution of minors; however, child prostitution occurred throughout the country. There were no statistics available regarding its prevalence. Many children engaged in prostitution without third-party involvement, although some were forced to do so. In the mining areas of Katanga, UNICEF reported that madams forced girls between the ages of eight and 10 years old, known as canetons (ducklings in French), into prostitution. According to HRW and a local NGO, Lazarius, police in Kinshasa extorted sexual services from child prostitutes.

There were an estimated 8.4 million orphans and vulnerable children in the country; 91 percent received no external support of any kind, and only 3 percent received medical support. The country's estimated 50,000 street children included many accused of witchcraft, child refugees, and war orphans, as well as children with homes and families. According to UNICEF, there were more than 18,000 street children in Kinshasa, of whom 26 percent were girls. Many churches in Kinshasa conducted exorcisms of children accused of witchcraft involving isolation, beating and whipping, starvation, and forced ingestion of purgatives. According to UNICEF, there was a practice of branding as witches children with disabilities or even speech impediments and learning disabilities; this practice sometimes resulted in parents abandoning their children. According to UNICEF, as many as 70 percent of the street children they worked with claimed to have been accused of witchcraft.

The government was ill-equipped to deal with large numbers of homeless children. Citizens generally regarded street children as delinquents engaged in petty crime, begging, and prostitution and approved of actions taken against them. Security forces abused and arbitrarily arrested street children (see sections 1.c. and 1.d.).

There were numerous reports that street children had to pay police officers to be allowed to sleep in vacant buildings and had to share with police a percentage of goods stolen from large markets.

In February the UNCRC underlined its concern over the frequency of sexual assaults committed against street children, as well as security forces' regular harassment, beating, and arrest of street children. In addition the UNCRC expressed con-

cern that “violence against children accused of witchcraft is increasing, and that children are being kept as prisoners in religious buildings where they were exposed to torture and mistreatment, or even killed under the pretext of exorcism.” The UNCRC recommended that the government take effective measures to prevent children from being accused of witchcraft, including by continuing and strengthening public awareness-raising activities, particularly directed at parents and religious leaders and by addressing root causes such as poverty. The UNCRC further urged the government to criminalize accusing children of witchcraft, bring to justice persons responsible for violence against children accused of sorcery, and take steps to recover and reintegrate children accused of witchcraft.

Several NGOs worked effectively with MONUC and UNICEF to promote children’s rights throughout the country.

Trafficking in Persons.—Several laws prohibited specific acts of trafficking in persons; however, there were credible reports of trafficking, particularly in the east. The laws that could be used to prosecute cases against traffickers included the 2006 law on sexual violence, which prohibits forced prostitution and sexual slavery, as well as legislation prohibiting slavery, rape, and child prostitution. The constitution forbids involuntary servitude and child soldiering; however, the laws do not prohibit all forms of trafficking.

The country was a source and destination country for men, women, and children trafficked for forced labor and sexual exploitation. There were reports of children prostituted in brothels or by loosely organized networks, some of whom were exploited by FARDC soldiers. Women and children were trafficked internally for domestic servitude and, in smaller numbers, to South Africa, the Republic of the Congo, and European countries, such as Norway, for sexual exploitation. No statistical information existed on the extent of adult or child prostitution. In February the UNCRC expressed concern over the continued trafficking and selling of children for sexual exploitation and economic exploitation, and, among other steps, it recommended that the government establish a system for collecting and disaggregating data on trafficking-related abuses.

MONUC and the NGO Save the Children estimated there were tens of thousands of children working in the mining sector, most often in extremely dangerous conditions as artisanal miners. According to UNICEF, 11 percent of children between the ages of four and 15 were involved in some form of exploitative and harmful child labor.

The majority of reported trafficking was conducted in the unstable eastern provinces by armed groups outside government control (see section 1.g.). Indigenous and foreign armed groups, including the FDLR, CNDP, various local militia (Mai-Mai), and the Uganda-linked LRA continued to abduct and forcibly recruit men, women, and children to serve as laborers (including in mines), porters, domestics, combatants, and sex slaves. In some instances elements of the FARDC detained men and women for temporary forced labor. During the year there were several reported cases of FARDC troops, mainly ex-CNDP soldiers in the FARDC, recruiting additional children and preventing UN child protection officers from accessing child soldiers in their ranks (see section 1.g.). Unlike in the previous year, there were no reports of recruitment by CNDP (or ex-CNDP) combatants of children from refugee camps in Rwanda.

According to the UNHCR, between September 2008 and June, the LRA abducted an estimated 1,400 individuals, mostly women and children, from the northeast.

All armed rebel groups in the east increased efforts to recruit children, especially children who were former child soldiers, to serve as soldiers and sex slaves, according to the NGO Save the Children (see section 1.g.).

The law specifically prohibits and provides penalties of 10 to 20 years’ imprisonment for child and forced prostitution, pimping, and trafficking for sexual exploitation. The government’s capacity to apprehend, convict, or imprison traffickers remained weak; however, unlike in the previous year, there were a few reported investigations or prosecutions of traffickers. For example, in March Bukavu police arrested a nightclub owner for allegedly prostituting 10 girls and seven boys in his facility; in June he was remanded to prison to await formal charges; no additional information was available at year’s end. In addition in March the Kipushi Military Tribunal sentenced Kynugu Mutanga (aka Gedeon) to death for crimes against humanity, including illegal child conscription. Seven of his codefendants received sentences ranging from seven to 10 years’ imprisonment for complicity in these crimes, 11 received lesser sentences, and five were acquitted.

Military authorities took no action against commanders who employed child soldiers. For example, Commander Jean-Pierre Biyoyo, formerly of the Mudundu-40 armed group and member of the FARDC and the first person convicted by the coun-

try's courts of conscripting children, had not been reapprehended since his escape from prison in 2006.

The Ministry of Justice was responsible for combating trafficking. Law enforcement authorities were rarely able to enforce existing laws due to lack of personnel, training, and funding and the limited accessibility of eastern areas of the country.

The government's antitrafficking programs were limited and lacked resources. However, under the National Disarmament, Demobilization, and Reintegration Program, ex-combatants, including child soldiers, passed through a common process during which they disarmed and received information about military and civilian reintegration options. During this process the National Demobilization Agency, in cooperation with MONUC, identified, separated out, and transported any identified children to NGO-run centers for temporary housing and vocational training. The DDR program, with support from UNICEF and other child protection agencies, demobilized 5,930 children, including 1,222 girls, from armed groups and the security forces during the year; it demobilized an estimated 5,000 children in 2008.

MONUC reported that it had facilitated the release of a total of 2,284 children from the armed groups between January and December. Between 2004 and November 2008 more than 31,000 children were released from the FARDC and armed groups. During the year the UNCRC expressed concern about the rerecruitment of children, due in part to insufficient reintegration support from earlier disarmament, demobilization, and reintegration processes.

In addition, in the east there were reports of certain FARDC units, comprised mainly of ex-CNDP soldiers, preventing UN officials from providing assistance to child soldiers in their ranks (see section 1.g.).

The Katanga provincial government also funded and operated a center for vulnerable children in Lubumbashi and worked with Save the Children, Solidarity Center, and other NGOs to direct children away from the mining sector and into formal education.

The government provided training to some police and military personnel on preventing sexual violence and child soldiering.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The law prohibits discrimination against persons with disabilities; however, the government did not effectively enforce this provision, and persons with disabilities often found it difficult to obtain employment, education, or government services.

The law does not mandate access to buildings or government services for persons with disabilities. Some schools for persons with disabilities, including the blind, received private funds and limited public funds to provide education and vocational training.

During the year children with disabilities were accused of witchcraft and subjected to abuse and abandonment (see section 6, children).

National/Racial/Ethnic Minorities.—Members of the country's more than 400 ethnic groups practiced societal discrimination on the basis of ethnicity, and discrimination was evident in hiring patterns in some cities. The government took no reported actions to address this problem.

Security forces in Kinshasa sometimes harassed, arbitrarily arrested, or threatened members of ethnic groups from Equateur, according to the UNJHRO. Security forces in North and South Kivu sometimes harassed, arbitrarily arrested, or threatened members of many different ethnic groups resident there.

Discrimination against persons with albinism was widespread and limited their ability to obtain employment, health care, and education, or to marry. Persons with albinism were frequently ostracized by their families and communities. According to a 2007 survey conducted in Kisangani by the UN Development Program, 83 percent of parents of albinos stated that their children were successful in school, but 47 percent said they felt humiliated by having albino children.

Between October and November, in the South Ubangi District of Equateur, ethnic violence between the Banzaya and Enyele clans (both of the Lobala ethnic group) erupted over farming and fishing rights, triggering a humanitarian crisis. After the district government recognized a member of the Banzaya clan as interim tribal chief in the village of Dongo in June, members of the Enyele clan forced the government-recognized tribal chief to flee. When the chief returned several months later with an armed police escort, Enyele clan members reportedly killed approximately 45 police officers, which led to a deployment of FARDC soldiers to address the Enyele insurgency and stabilize the area. By year's end, the clashes had resulted in at least 100 civilian deaths, as many as 60,000 internally displaced persons, and more than

117,000 refugees, of whom 109,000 fled into the neighboring Republic of the Congo and 18,000 into the Central African Republic.

During the year the special adviser to the UNSG on the prevention of genocide expressed concern regarding the situation in North Kivu, including the risk of genocidal violence. The special adviser cited allegations and counterallegations by various groups that genocide continued in the east and that this rhetoric had drastically increased tensions between ethnic communities. He concluded that the risk of individuals being targeted because of their ethnicity was pronounced, above and beyond other underlying causes of conflict.

Indigenous People.—The country had a population of between 10,000 and 20,000 Pygmies (Twa, Mbuti, and others), believed to be the country's original inhabitants; the government did not effectively protect their civil and political rights, and societal discrimination against them continued. Most Pygmies took no part in the political process and continued to live in remote areas. During the year fighting in North Kivu between armed groups and government security forces caused displacement of some Pygmy populations.

In some areas traditional leaders (mwami) and wealthy persons captured Pygmies and force them into slavery. Those captured were known as "badja" and were considered the property of their masters. During 2008 the World Peasants/Indigenous Organization conducted a three-month campaign to free such individuals. In August 2008, 96 Pygmy slaves were released; 46 of the group belonged to families that had been enslaved for generations.

No action was taken against PNC officers, who in 2007 arrested a Pygmy and subjected him to cruel, inhuman, and degrading treatment for no known reason.

In a report submitted in September to the UPRWG, a coalition of local NGOs expressed concerns over the exploitation of forestry resources that endangered Pygmies' way of life in the provinces of Equateur and Orientale, and over the social marginalization of Pygmies. In a separate report for the UPRWG, the UNHCHR cited past concerns expressed by the UN Committee on the Elimination of Racial Discrimination (CERD) over the lack of guarantees for the rights of Pygmies to own, exploit, control, and use their lands, resources, and communal territories. According to CERD, concessions were granted on the lands and territories of indigenous peoples without their prior permission or other input.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—There are no known laws specifically prohibiting homosexuality or homosexual acts; however, individuals engaging in public displays of homosexuality were subject to prosecution under public decency provisions in the penal code and articles in the 2006 law on sexual violence. Homosexuality remained a cultural taboo, but there were no reports during the year of police harassing homosexuals or perpetrating or condoning violence against them. There were no reports during the year of official or societal discrimination based on sexual orientation in employment, housing, education, or health care.

Other Societal Violence or Discrimination.—There were no reports of societal violence or discrimination based on HIV/AIDS status.

In July 2008 President Kabila promulgated a new law passed by parliament that prohibits discrimination against persons with HIV/AIDS.

Section 7. Worker Rights

a. The Right of Association.—The constitution provides all workers, except government officials and members of the security forces, the right to form and join trade unions without prior authorization or excessive requirements. The extent to which the government protected this right in practice was limited. Of an estimated 24 million adults of working age, 128,000 employees in the private sector (0.5 percent) belonged to unions, according to the U.S. NGO Solidarity Center. No information was available regarding the number of union members in the public sector. The informal sector, including subsistence agriculture, constituted at least 90 percent of the economy. The law provides for the right of unions to conduct activities without interference and to bargain collectively; however, the government did not always protect these rights.

Private companies often registered bogus unions to create confusion among workers and discourage real ones from organizing. According to the Solidarity Center, many of the nearly 400 unions in the private sector had no membership and had been established by management, particularly in the natural resources sector.

The constitution provides for the right to strike, and workers sometimes exercised it. In small and medium-sized businesses, workers could not exercise this right effectively in practice. With an enormous unemployed labor pool, companies and shops could immediately replace any workers attempting to unionize, collectively bargain,

or strike, and, according to the Solidarity Center, companies and shops did so during 2008. The law requires unions to have prior consent from the Ministry of Labor and to adhere to lengthy mandatory arbitration and appeal procedures before striking. The law prohibits employers and the government from retaliating against strikers; however, the government did not enforce this law in practice.

Unlike in 2008, there were no reports of the use of violence by security forces against unions. There were no developments concerning the March 2008 incident during which police in Katanga reportedly fired into a crowd and killed a boy during clashes with hundreds of artisanal miners.

b. The Right to Organize and Bargain Collectively.—Collective bargaining was ineffective in practice. The government set public sector wages by decree, and unions were permitted to act only in an advisory capacity. Most unions in the private sector collected dues from workers but did not succeed in engaging in collective bargaining on their behalf.

The law prohibits discrimination against union employees, although authorities did not enforce this regulation effectively, and antiunion discrimination occurred in practice. The law also requires employers to reinstate workers fired for union activities.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The constitution prohibits forced or compulsory labor, including by children; however, although no statistics were available, both were practiced throughout the country. The government did not effectively enforce laws prohibiting forced or compulsory labor.

Men, women, and children were coerced into forced labor and sexual exploitation. Children were prostituted in brothels or by loosely organized networks. An estimated tens of thousands of children worked in the mining sector, most often in extremely dangerous conditions as artisanal miners. In the east, indigenous and foreign armed groups continued to abduct and forcibly recruit men, women, and children to serve as laborers (including in mines), porters, domestics, combatants, and sex slaves (see section 1.g.).

Some police officers in the east reportedly arrested individuals arbitrarily in order to extort money from them; those who could not pay were forced to work until they had “earned” their freedom.

Government security forces continued to force men, women, and children, including IDPs and prisoners, to serve as porters, mine workers, and domestic laborers (see sections 1.c., 1.g., 6, and 7.d.).

The military took no action against FARDC soldiers who used forced labor and abducted civilians for forced labor in 2009, 2008, or 2007.

In the mining sector, middlemen and dealers acquired raw ore from unlicensed miners in exchange for tools, food, and other products. Miners who failed to provide sufficient ore became debt slaves, forced to continue working to pay off arrears. The government did not attempt to regulate this practice.

Armed groups operating outside central government control subjected civilians, including children, to forced labor, including sexual slavery (see section 1.g.).

d. Prohibition of Child Labor and Minimum Age for Employment.—There were laws to protect children from exploitation in the workplace; however, government agencies did not effectively enforce child labor laws. Child labor remained a problem throughout the country, including forced child labor. Although there was at least one report of a large enterprise using child labor during the year, it was much more common in the informal sector, particularly in mining and subsistence agriculture. For economic survival, families often encouraged children to work in order to earn money. According to the Ministry of Labor, children continued to work in mines and stone quarries, and as child soldiers, water sellers, domestic servants, and entertainers in bars and restaurants.

Although the minimum age for full-time employment without parental consent is 18, employers may legally hire minors between the ages of 15 and 18 with the consent of a parent or guardian. Those under age of 16 may work a maximum of four hours per day. All minors are restricted from transporting heavy items.

According to data collected by UNICEF in surveys between 1999 and 2007, approximately 32 percent of children between the ages of five and 14 were involved in child labor. UNICEF considered children to be involved in labor if, during the week preceding the survey, a child who was five to 11 years old performed at least one hour of economic activity or at least 28 hours of domestic work or a child who was 12 to 14 years old performed at least 14 hours of economic activity or at least 28 hours of domestic work.

Criminal courts continued to hear child labor complaints. Security forces and armed groups in conflict-affected areas in the east used children, including child sol-

diers, for forced labor in mines (see section 1.g.). However, the use of forced child labor by security forces was not limited to conflict zones. For example, in October UNICEF reported that soldiers in Katanga forced children and adults to mine and transport heavy loads for them.

Children made up as much as 30 percent of the work force in the informal ("artisanal") mining sector. In mining regions of the provinces of Katanga, Kasai Occidental, Orientale, and North and South Kivu, children performed dangerous mine work, often underground. In many areas of the country, children who were five to 12 years old broke rocks to make gravel for a small wage. In October a foreign diplomat observed children breaking stones and carrying heavy loads in a stone quarry on the compound of the government-owned Gecamines mining company in Kipushi, Katanga. According to the Solidarity Center, during the year there was an increase in the number of children working in the Kolwezi mines in southern Katanga. Catholic Relief Services in Katanga reported that the local population, including children, were drawn to mining work, largely due to the lack of alternative sources of income and the higher salaries offered in the mining sector.

Child prostitution, including forced prostitution, was practiced throughout the country (see section 6).

According to a 2007 Save the Children report, approximately 12,000 children in Kasai Oriental were employed at 20 unlicensed diamond mining sites. The children excavated, transported, and washed dirt in search of diamonds. At mines near Tumpatu, Kasai Oriental, girls who were approximately 12 years old worked as prostitutes. According to the report, preteen children also worked digging tombs at the cemeteries for 500 to 1,000 Congolese francs (approximately \$.55 to \$1.10) per day and as dishwashers and guards at restaurants for 125 to 250 Congolese francs (approximately \$.14 to \$.28) per day. No action was taken against mine operators and supervisors.

In addition children were used to extract copper, cobalt, and gold. In the east, armed groups forced children to mine coltan, tungsten ore, and cassiterite.

Parents often used children for dangerous and difficult agricultural labor. Children sent to relatives by parents who could not support them sometimes effectively became the property of those families, who subjected them to physical and sexual abuse.

The Ministry of Labor has responsibility for investigating child labor abuses but had no dedicated child labor inspection service. The Ministry of Labor had yet to develop a national action plan to comprehensively address child labor. Other government agencies responsible for combating child labor included the Ministry of Gender, Family and Children, the Ministry of Social Affairs, and the National Committee to Combat Worst Forms of Child Labor. These agencies had no budgets for inspections and conducted no investigations during the year.

During the year government officials participated in a tripartite dialogue on child labor in Katanga with unions, enterprises, and the ILO. The effort was part of an ILO program, conducted in cooperation with government officials, designed to withdraw children from industrial and artisanal mining, improve working conditions for diggers, and eradicate child labor.

In November the ILO recommended that the government focus on creating employment opportunities, strengthening the skills of women, enrolling children in school, and reducing the country's reliance on imports in order to bolster the fight against child labor.

e. Acceptable Conditions of Work.—Employers in the informal sector often did not respect the legally required minimum wage of 500 Congolese (approximately \$0.55) per day. The average monthly wage did not provide a decent standard of living for a worker and family. Government salaries remained low, ranging from 25,000 to 55,000 Congolese francs (approximately \$28 to \$61) per month, and salary arrears were common in both the civil service and public enterprises (parastatals). More than 90 percent of laborers worked in subsistence agriculture, informal commerce or mining, or other informal pursuits.

The law defines different standard workweeks, ranging from 45 to 72 hours, for various jobs. The law also prescribes rest periods and premium pay for overtime, but employers often did not respect these provisions in practice. The law establishes no monitoring or enforcement mechanism, and businesses often ignored these standards in practice.

The law specifies health and safety standards; however, government agencies did not effectively enforce them. The law does not provide workers the right to remove themselves from dangerous work situations without jeopardizing their employment.

According to the NGO Pact, an estimated 10 million miners worked in the informal sector nationwide and up to 16 percent of the population may have indirectly

relied on so-called artisanal, or small-scale, mining. Many suffered violence from guards and security forces for illegally entering mining concessions.

REPUBLIC OF THE CONGO

The Republic of the Congo, with an estimated population of four million, is a parliamentary republic in which most of the decision-making authority and political power is vested in the president and his administration. Denis Sassou Nguesso was reelected president in the July 12 election with 78 percent of the vote. While the election was peaceful, opposition candidates and nongovernmental organizations (NGOs) cited irregularities. The African Union declared the elections to have been free and fair. Civilian authorities generally maintained effective control of the security forces.

The government's human rights record included instances of abuses including: killings of suspects by security forces; mob violence; beatings and other physical abuse of detainees; rapes; solicitation of bribes and theft; harassment and extortion of civilians by unidentified armed elements; poor prison conditions; official impunity; arbitrary arrest; lengthy pretrial detention; an ineffective and largely nonfunctioning judiciary; infringement of citizens' privacy rights; restrictions on freedom of speech, press, association, and movement; official corruption and lack of transparency; domestic violence, including rape, and societal discrimination against women; trafficking in persons; discrimination on the basis of ethnicity, particularly against Pygmies; and child labor.

RESPECT FOR HUMAN RIGHTS

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

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

In January journalist and activist Bruno Jacquet Ossebi, known for outspoken coverage of government corruption, was in a house fire which some organizations believed was set for political reasons, but others reported it as a simple electrical fire. Ossebi's companion and child died in the fire, while he died several days later in the hospital. The death was officially declared an accident, and there was no investigation. Ossebi's last article before his death described corruption in the management of the country's oil wealth. He had also reported on a lawsuit involving three African leaders, including President Nguesso.

In December 2008 the Congolese Observatory of Human Rights reported the killing of Jean Bambelo, a domestic employee, by a government official. After an investigation, the official's military bodyguards were arrested, sentenced to 15 years in prison, and stripped of their military rank. No action was taken against the official.

In June 2008 Silvain Banobi died from wounds inflicted by the Nkombo Public Security Post. By year's end there had been no investigation into his death.

No investigation was conducted into the 2008 death of Guy Poaty, who died in custody after being beaten and reportedly tortured by police in Pointe Noire.

There were no further developments in the following 2007 cases: the death of Guy Yombo, a prisoner at the Ouenze jail; the death of a Brazzaville prisoner trying to escape from jail; and the killing by police of three armed suspects in Brazzaville who were resisting arrest.

Local inhabitants frequently took the law into their own hands to punish persons presumed or known to be police or military personnel who looted civilian residences, resulting in death or serious injury. Such incidents were most common in remote areas.

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

There were no further developments in the disappearance and presumed deaths of 353 persons in the 1999 "Beach" incident. The individuals were separated from their families by security forces in 1999 upon their return from the Democratic Republic of Congo (DRC). The families of the victims tried unsuccessfully to use French courts to bring claims of criminal wrongdoing against individuals and the Congolese government. In April 2008 French courts ruled against allowing the cases to proceed in the French judicial system. In 2005 a Brazzaville court acquitted 15 high-ranking military and police officials accused of involvement in the case. In 2006 the Supreme Court refused to consider an appeal by the families.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution and law prohibit such practices and, unlike the previous year, there were no confirmed reports that government officials employed them.

On January 14, Mayor Gomez De Makanda shot and wounded Nuptia Managu, in Bacongo market, while firing at the tires of a local taxi blocking the road. The mayor was removed from office, but no trial had been scheduled by year's end.

Police assaulted international journalists (see section 2.a.).

Unlike the previous year, there were no confirmed reports that security force members raped female detainees.

During the year two gendarmes were dismissed from duty for the 2008 rape of a woman in detention in the Talangai District of Brazzaville. By year's end no charges had been brought against the officers.

No action was taken against police for the beating of civilians and destruction of property during the August 2008 raids on restaurants, snack bars, and kiosks, and no investigation was conducted during the year.

Prison and Detention Center Conditions.—Prison and detention center conditions were harsh and life threatening. Prisons were overcrowded. More than 500 prisoners were housed in the Brazzaville Maison d'Arret, known as the central prison, which was built in 1944 for fewer than 100 prisoners. In the central prison, the only prison in the capital, most cellmates slept on the floor on cardboard or thin mattresses in small cells, exposing them to disease. Food was poor and health care virtually nonexistent, provided primarily, if at all, by outside charities. Prisoners and detainees in the central prison usually received one meal per day.

There were six prisons in the country but only two were in operation: the one in Brazzaville and one in Pointe Noire. Other facilities stopped functioning in 2008 due to dire conditions, and many prisoners were allowed to leave. By year's end the prison population was an estimated 492, the majority of whom were awaiting trial; most were jailed for assault and robbery. The Brazzaville prison held 347 prisoners, including 37 women and 45 minors. The Pointe Noire prison held 165 prisoners, including three women and two minors.

There were separate facilities for women and men. Juveniles were held with adults, and pretrial detainees were held with convicted prisoners.

The government continued to grant access to prisons and detention centers to domestic and international human rights groups. During the year the International Committee of the Red Cross (ICRC), local human rights groups, and NGOs regularly visited prisons and detention centers.

The ICRC maintained an office in Brazzaville. During the year access to government officials and detainees remained good for international humanitarian officials. In contrast, local NGOs had poor access.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention. However, members of the security forces unreasonably and arbitrarily detained persons for minor offenses, mostly traffic-related, and required them to pay bribes on the spot as a condition for release.

A number of politically motivated arrests occurred in Brazzaville related to the July presidential elections (see section 1.e.).

Role of the Police and Security Apparatus.—The security forces include the police, gendarmerie, and military. The police and the gendarmerie are responsible for maintaining internal order, with police primarily in cities and the gendarmerie mainly in other areas. Military forces are responsible for external security, but also have domestic security responsibilities, such as protecting the president. The minister of defense oversees the military forces and gendarmerie, and the minister of security oversees the police.

A joint police unit under the Ministry of Security and Public Order is responsible for patrolling the frontiers. Another unit, the military police, is composed of military and police officers and is primarily responsible for investigating professional misconduct by members of any of the security forces. Overall, professionalism of the security forces continued to improve, in large part due to training by the international law enforcement community. The government generally maintained effective control over the security forces; however, some members of the security forces acted independently of government authority and committed abuses.

Corruption remained a significant problem in the security forces. During the year there were reports of arrested individuals whose families bribed police to secure their release.

Traffic police extorted bribes from taxi drivers and others under threat of impoundment of their vehicles. Although the Human Rights Commission (HRC) was established for the public to report security force abuses, impunity for members of the security forces remained widespread.

Arrest Procedures and Treatment While in Detention.—The constitution and law require that warrants be issued by a duly authorized official before arrests are made, that a person be apprehended openly, that a lawyer be present during initial

questioning, and that detainees be brought before a judge within three days and either charged or released within four months. However, the government habitually violated these provisions. There is a system of bail, but more than 70 percent of the population had an income below the poverty level and could not afford to post bail. Detainees generally were informed of the charges against them at the time of arrest, but formal charges often took at least one week to be filed. Police at times held persons for six months or longer due to administrative errors or delays in processing detainees. Most delays were attributed to lack of staff in the Ministry of Justice and court system. Lawyers and family members usually were given prompt access to detainees, and indigent detainees were provided lawyers at government expense. If indigent detainees were detained outside a major city, they were often transferred to the closest town or city where an attorney was available.

Arbitrary arrest continued to be a problem. The most common cases were threats of arrest to extort bribes. These were perpetrated most often against vehicle operators (mainly taxi drivers) by police, gendarmes, or soldiers. Immigration officials also routinely stopped persons and threatened them with arrest, claiming they lacked some required document, were committing espionage, or on some other pretext to extort funds. Most often these incidents resulted in the bribe being paid; if not, the person was detained at a police station (or the airport) until either a bribe was paid or pressure was placed on authorities to release the individual.

The arrests of opposition members Malgala Sabin, Douniama-Etou Jean Ferenzi, and Ernest Ngalou following the July 12 elections were perceived to be politically motivated.

On July 15, security forces arrested former self-exiled opposition leader and Lissouba loyalist General Ferdinand Mbaou upon his arrival at the Brazzaville airport. Mbaou, who had been in exile in France since 1997, was charged with breaching national security. At year's end he remained in police custody.

Gilbert Nsonguissa, an advisor to the exiled former minister of finance Nguila Moungounga Nkombo, was arrested in September 2008 while conducting an opposition party rally. Nsonguissa was released in December and returned to France.

Lengthy pretrial detention due to judicial backlogs was a problem. Pretrial detainees continued to constitute the majority of the prison population. On average detainees waited six months or longer before a trial.

e. Denial of Fair Public Trial.—Although the constitution and law provide for an independent judiciary, the judiciary continued to be overburdened, underfunded, and subject to political influence and corruption.

The judicial system consists of traditional and local courts, courts of appeal, a Court of Accounts, the High Court of Justice, the Constitutional Court, and the Supreme Court. In rural areas, traditional courts continued to handle many local disputes, particularly property and inheritance cases, and domestic conflicts that could not be resolved within the family. The Court of Accounts' function is to hear cases related to mismanagement of government funds. The Constitutional Court's responsibilities are to adjudicate the constitutionality of laws and judicial decisions, and review judicial decisions or crimes involving the president and other high-ranking authorities in the conduct of their official duties. Local courts dealt with criminal and civil complaints. The Supreme Court met regularly and primarily heard cases related to the legality of land seizures by the government during the civil war. It also reviewed administrative and penal cases from lower courts.

Trial Procedures.—The constitution provides for the right to a fair trial presided over by an independent judiciary; however, the legal caseload far exceeded the capacity of the judiciary to ensure fair and timely trials, and most cases never reached the court system. Some prisoners were subsequently freed and considered to be in pending trial status, but most remained in pretrial detention. In general, when trials occurred prior to 2006, defendants were tried in a public court of law presided over by a state-appointed magistrate.

Defendants are presumed innocent, have the right to appeal, to be present at their trial, and to consult with an attorney in a timely manner. An attorney is provided at public expense if an indigent defendant faces serious criminal charges. Defendants can confront or question accusers and witnesses, and present witnesses and evidence on their own behalf. The defense has access to prosecution evidence. Juries are used. In principle, the law extends the above rights to all citizens.

The military has a tribunal system—the Martial Court—to try criminal cases involving military members, gendarmerie, or police. Civilians are not tried under this system. This body was believed to be subject to influence and corruption. However, in a continuation of a 2007 investigation into corrupt military payroll practices, during the year the Martial Court suspended the salaries of more than 500 current and

former military personnel. The court continued repayment of the lost funds by garnishing wages from these personnel.

Political Prisoners and Detainees.—There were some political prisoners and detainees (see section 1.d.). Political prisoners may be detained for up to one month, and this period may be extended to three months by a judge. In practice these laws were not always observed, and the few known political prisoners were sometimes detained for up to six months or more. As in previous years, local and international NGOs, including the ICRC, reported monitoring the condition of several political prisoners.

There were no further developments in the case of three exiled DRC military officers, who have been in pretrial detention pending extradition since 2004.

Civil Judicial Procedures and Remedies.—There is a civil court system; however, it was widely believed to be subject to the same corrupt practices as found in the criminal court system. Although persons can file a lawsuit in court on civil matters, including seeking damages or cessation of a human rights violation, no such cases were known to exist. There remained general mistrust of the judicial system as a means to address human rights issues.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and law prohibit such actions and, unlike in the previous year, the government generally respected these prohibitions in practice.

Unlike in the previous year, there were no reports that citizens believed the government monitored telephone and mail communications of selected individuals.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution and law provide for freedom of speech and of the press, but also criminalize certain types of speech, such as incitement of ethnic hatred, violence, or civil war. The government at times limited freedom of speech and press. Freedom declined during the year, according to international NGO Freedom House. Broadcast journalists and government print media journalists practiced self-censorship. The nongovernmental print media experienced few constraints as long as its reporting stayed only in print form and was not broadcast.

Individuals could criticize the government publicly or privately without reprisal on relatively minor issues. However, persons feared reprisal if they named high-level officials while criticizing government policies. The government generally did not proactively attempt to impede criticism by, for example, monitoring political meetings, but it sometimes punished critics after the fact.

There was one state-owned newspaper, *La Nouvelle Republique*, and several publications that were closely allied with the government. There were 40 private weekly newspapers in Brazzaville that criticized the government. Newspapers occasionally published open letters written by government opponents. The print media did not circulate widely beyond Brazzaville and Pointe Noire.

Most citizens obtained their news from radio or television, and in rural areas primarily from government-controlled radio. There were three privately owned radio stations, all progovernment, three government-owned radio stations, and one government-owned television station. There were four privately owned television stations; unlike in previous years, two of the four stations were increasingly critical of the government. Several satellite television services were available and permitted the few who could afford it to view a wide range of news programs.

Government journalists were not independent and were expected to report positively on government activities. There was evidence that when government journalists deviated from this guidance there were adverse consequences, especially if they were critical of the president or other senior officials. A journalist reporting on official corruption died in a home fire suspected by some to have been politically motivated, although official investigation ruled out foul play (see section 1.a.).

During the July presidential elections, several international journalists reported harassment by military police. Thomas Fessy from BBC and Marlene Rabaud of France 24 both reported physical assault and seizure of equipment by police. Catherine Ninin of Radio France International reported being threatened and harassed in her hotel by security agents. Committee to Protect Journalists program coordinator Tom Rhodes called on the government to halt the intimidation, return seized equipment, and compensate media for damages. However, by year's end the government had taken no action.

On September 14, security forces arrested without charge British filmmaker Graham Hughes; the government claimed he was taking pictures of government leaders. Security officials seized his glasses, medicine, camera, and video equipment.

Hughes, who described his conditions of detainment as “shocking,” was denied consular access for four days; he was released on September 19.

There were no further developments in the case of television journalist Christian Perrin, who was fined in July 2008 for airing footage of a riot.

No action was taken against police responsible for beating reporter Giscard Mayoungou in September 2008.

A number of Brazzaville-based journalists represented international media. There were no confirmed reports of the government revoking journalists’ accreditations if their reporting reflected adversely on the government’s image; however, the government had not repealed the policy that allowed revocation. This policy affected journalists employed by both international and government-controlled media. Local private journalists were not affected by the policy.

The press law provides for monetary penalties for defamation and incitement to violence.

Internet Freedom.—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics for 2008, approximately 4 percent of the country’s inhabitants used the Internet.

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

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The constitution and law provide for freedom of assembly; however, the government did not always respect this right in practice.

Groups that wished to hold public assemblies were required to seek authorization from the Ministry of Territorial Administration and appropriate local officials, who could withhold authorization for meetings that they claimed might threaten public order.

The government prevented political parties from organizing public events. On July 15, security forces prevented the opposition political parties led by opposition leader Mathias Dzon from holding their press conference at the parliament. The incident resulted in a public disturbance in which police were required to intervene.

Opposition parties cited three other instances of state interference in their peaceful assembly during the year. The opposition party, Front des Partis de L’Opposition Congolaise, claimed it was forbidden to hold meetings on April 11 in Kinkala, on April 5 in Pointe Noire, and simultaneously on July 15 in the cities of Pointe Noire, Dolisie, Mossendjo, Nkayi, Ouesso, Owando, and Kinkala. During the July 15 assembly, a policeman fired a warning shot which injured two bystanders. There were no further developments by year’s end.

Freedom of Association.—The constitution and law provide for freedom of association, and the government generally respected the right of most groups to associate. Groups or associations—political, social, or economic—were generally required to register with the Ministry of Territorial Administration. Registration could sometimes be subject to political influence.

During the year Marien Ngouabi and Ethics, a political opposition group that unsuccessfully sought to organize in 2008, instead applied for registration in France.

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

Societal Abuses and Discrimination.—There were no reports of discrimination against members of religious groups. There was no substantial Jewish community in the country. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation; however, in practice the government at times imposed limitations. Immigration officials routinely stopped travelers on various pretexts to extort funds.

Although the 2003 disarmament agreement effectively ended the organized rebellion in the Pool region, unidentified armed elements believed to be former Ninja rebels continued to harass and intimidate citizens. Since the Pool region is bisected by the only road and rail links between Brazzaville and the port of Pointe Noire, reduced but continuing rebel activity and banditry in the region limited the freedom of movement of persons and goods. Unlike in previous years, there were no reports

of deaths attributed to banditry in the Pool region. The national police reported that former Ninjas continued to rob and harass vehicles and train passengers.

During the year several political opposition leaders were banned from travelling outside the country. Ange Édouard Pongui, vice president of the Panafrican Union for Social Democracy (UPADS); opposition leader Mathias Dzon; and Emmanuel Ngouelondele, president of the Party for Democratic Alternance, were turned away at Brazzaville's airport as they attempted to board international flights. The government claimed the ban was due to an ongoing investigation into the role of these individuals in the July 15 protest, which resulted in a shooting. The complete list of individuals banned from travel was not publicly announced. Effectively, the only way for members of the opposition to know whether they were banned from foreign travel was to attempt to board an international flight.

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

The government did not generally prevent the return of citizens, including political opponents of the president, although some were arrested upon their return to the country. Former president Pascal Lissouba, who was sentenced in absentia in 2001 to 30 years in prison for "economic crimes," remained in exile in France. On December 13, the national assembly passed a bill granting Lissouba amnesty. At year's end the bill was awaiting the president's approval.

Protection of Refugees.—The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and the 1960 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. Its laws provide for the granting of asylum or refugee status, and the government has established a system for doing so. In practice the government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The country, especially areas that border the DRC, has seen numerous instances of displaced persons in recent years. For example, since October the country has experienced an influx of displaced persons into Likouala. In less than two months, 90,000 persons entered this isolated region of the country.

Although at year's end the government had not decided whether the latest group of displaced persons to arrive in the country should be identified as refugees, it responded efficiently to meet their needs. Beginning in October the government provided fuel for World Food Program barges, deployed military forces to guarantee the security of displaced persons and relief workers, allocated land to be set aside for settlement camps and farms, and allowed the UN High Commissioner for Refugees (UNHCR) to begin a formal registration process.

In this case and throughout the year, the government cooperated with the UNHCR, other agencies of the UN system, and humanitarian organizations in assisting refugees and asylum seekers. The government cooperated with the UNHCR in the voluntary return of refugees, including former combatants from the DRC, to their home countries. In the wake of the refugee influx into Likouala in October, the government set up a crisis committee cochaired by the UNHCR and coordinated the national and international response to the situation with the UN country team.

Applications for refugee status were handled by the National Refugee Assistance Center (CNAR). Although the center experienced some financial difficulties in 2007, it was fully operational during the year. The CNAR received between 80 and 90 percent of its operating budget from the UNHCR. Since 2007 the CNAR and the UNHCR have worked to reduce a heavy backlog and have processed approximately 3,000 refugee applications in the last two years. According to the UNHCR, as of September, the country hosted an estimated 18,210 refugees and 4,455 asylum seekers. The refugees came from the DRC (9,224); Rwanda (7,868); Angola (813); and other countries (305).

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

The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right during the July presidential election.

Elections and Political Participation.—Denis Sassou Nguesso was reelected president in the July 12 election with 78 percent of the vote. Officially, 66 percent of eligible voters participated in the election, although the opposition estimated the turnout to be much lower. While the election was peaceful, opposition candidates and NGOs criticized the election for irregularities, such as a discrepancy between the officially reported rates of voter participation and that observed by independent election observers. The African Union declared the elections to have been free and fair.

Prior to the election, the EU representative questioned the method of updating the voter registry.

Following the election, the government restricted the travel of several opposition politicians including Mathias Dzon and Herve Malonga. These restrictions were lifted on October 30.

Major political parties included the ruling Congolese Labor Party; the Pan-African Union for Social Development; the Congolese Movement for Democracy and Integrated Development; the Union for Democracy and the Republic; the Rally for Democracy and Social Progress; and the Union for Progress. Opposition parties encountered government restrictions, particularly with regard to the right to organize. Political opposition parties were restricted from organizing before, during, and after the July presidential elections (see section 2.d.).

Following the July election, the newly appointed government included a number of high-ranking politicians from northern ethnic tribes as well as a number of representatives from other regions and ethnicities.

There were eight women in the 72-seat senate and seven women in the 137-seat national assembly. There were six women in the 38-member cabinet.

Despite a 2006 parliamentary reaffirmation of their right to vote, some Pygmies were excluded from the political process due to their isolation in remote areas, lack of registration, culture, and stigmatization by the majority Bantu population. During the year the parliament passed a new law to protect the rights of Pygmies (see section 6.).

Section 4. Official Corruption and Government Transparency

The law provides for criminal penalties for official corruption; however, the government did not implement the law effectively, and officials engaged in corrupt practices with impunity. According to the World Bank's Worldwide Governance Indicators, government corruption was a severe problem, although the Bank and the International Monetary Fund noted that the government undertook significant reform measures to combat corruption. There was a widespread perception of corruption throughout government, including misuse of revenues from the oil and forestry sectors. Some local and international organizations claimed that government officials, through bribes or other fraud, regularly diverted revenues from these industries into private overseas accounts before the revenues were declared officially. Pervasive lower-level corruption included demands for bribes by security personnel, customs officials, and immigration personnel.

Senior officials were subject to financial disclosure laws. It was unclear if the officials complied in practice.

The law provides for public access to government information for citizens, noncitizens, and the foreign media; however, in practice there were lengthy delays before the government released information, if it did so at all.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated, with some exceptions, without government restriction during their investigations and publishing of their findings on human rights cases. Government officials generally were more cooperative and responsive to international groups than to domestic human rights groups. Some domestic human rights groups tended not to report specific incidents for fear the government would impose obstacles to their work.

The government-sponsored HRC is charged with acting as a watchdog and addressing public concerns on human rights issues. Some observers claimed that the commission was completely ineffective and lacked independence. The president appointed most, if not all, of its members. On December 14, the commission met for the second time since 2008 to draft the 2010 agenda and to commission bylaws.

The ICRC maintained an office in Brazzaville. During the year access to government officials and to detainees remained good for international humanitarian officials. Local NGOs, in contrast, had poor access.

Representatives from the International Court of Justice visited Brazzaville in November, but did not issue any report.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law and constitution prohibit discrimination on the basis of race, gender, language, religion, social status, or disability; however, the government did not effectively enforce these prohibitions. There were documented instances of societal discrimination and violence against women, regional ethnic discrimination, and discrimination against indigenous persons.

Women.—Rape, including spousal rape, is illegal; however, the government did not effectively enforce the law. The law prescribes five to 10 years in prison for violators. However, according to local women's groups, the penalties for rape could be as little as several months and rarely more than three years' imprisonment, despite the provisions of the law. Rape was common, but the extent of the problem was unknown because the crime was seldom reported. As of July a total of 182 cases of rape had been reported to local police. Fewer than 25 percent of reported rape cases were prosecuted, according to local and international NGO estimates.

Domestic violence against women, including rape and beatings, was widespread but rarely reported. There were no specific provisions under the law outlawing spousal battery, other than general statutes prohibiting assault. Domestic violence traditionally was handled within the extended family or village, and only more extreme incidents were reported to the police, primarily due to the social stigma for the victim. Local NGOs continued awareness campaigns and workshops.

Female genital mutilation (FGM) was not practiced indigenously and is against the law. It may have occurred, however, in some immigrant communities from West African countries where it was common. There were no known governmental or other efforts to investigate or combat FGM.

Prostitution is illegal, but was common, and the government did not effectively enforce this prohibition.

Sexual harassment is illegal. Generally the penalty is two to five years in prison. In particularly egregious cases, the penalty can equal the maximum for rape, five to 10 years in prison. However, the government did not effectively enforce the law. According to local NGOs, sexual harassment was very common but rarely reported. As in previous years, there were no available official statistics on its incidence.

There are no laws restricting reproductive rights, childbirth, or timing of pregnancies. There were no restrictions on the right to access contraceptives; however, they were not widely used by the population because of the expense. Health clinics and public hospitals were generally in poor condition and lacked experienced health staff. Men and women received equal access to diagnosis of and treatment for sexually transmitted infections, including HIV. The National Committee to Fight AIDS coordinates national policy to counter the spread of the HIV/AIDS virus.

Marriage and family laws overtly discriminate against women. Adultery is illegal for women but not for men. Polygyny (having multiple wives) is legal; polyandry (having multiple husbands) is not. The law provides that a wife shall inherit 30 percent of her husband's estate. In practice the wife often lost all inheritance upon the death of her spouse, particularly under traditional or common-law marriage. The symbolic nature of the dowry is set in the law; however, this often was not respected, and men were obliged to pay excessive bride prices to the woman's family. As a result, the right to divorce was restricted for some women because they lacked the means to reimburse the bride price to the husband and his family. This problem was more prevalent in rural areas than in urban centers. The Ministry of Social Affairs was in charge of protecting and promoting the rights of women, but it did not effectively perform this function.

The law prohibits discrimination based on gender and stipulates that women have the right to equal pay for equal work. However, women were underrepresented in the formal sector. Women experienced economic discrimination in access to employment, credit, equal pay, and owning or managing businesses. Most women worked in the informal sector and thus had little or no access to employment benefits. Women in rural areas were especially disadvantaged in terms of education and wage employment and were confined largely to family farming, small-scale commerce, and child-rearing responsibilities. Many local and international NGOs have developed microcredit programs to address this problem, and government ministries, including those of social affairs and agriculture, were also active in helping women set up small income-producing businesses.

Children.—Citizenship is acquired by birth in the country as well as from one's parents.

The government does not provide automatic recording of births; it is the responsibility of the parents to record the birth of a child. Recording is not required, but it must be done to obtain a birth certificate, which is necessary for school enrollment and other services. Pygmies, in particular, were denied social services as a result of not being registered. Those living in remote villages had a difficult time registering, as it was done only in the major city of each department. The government continued a system to provide free birth registration in Brazzaville, but, as in previous years, the program did not cover other areas of the country.

Education was compulsory, tuition-free, and universal until the age of 16, but families were required to pay for books, uniforms, and school fees. School enrollment was generally higher in urban areas. Although there was no specific data available,

Pygmy children were at a disadvantage in school attendance since their parents generally failed to register births and obtain the necessary records. According to official statistics, an estimated 92 percent of children attended primary school. Schools were overcrowded and facilities extremely poor. Girls and boys attended primary school in roughly equal numbers; however, boys were five times as likely as girls to continue to high school and four times as likely to go to a university. In addition, there were some reports that teenage girls were pressured to exchange sex for better grades, which contributed to both the spread of HIV/AIDS and unwanted and unplanned pregnancies.

Child abuse was not commonly reported. Most reports in previous years involved the West African immigrant communities in the country.

There were cases of children, particularly those who lived on the streets, engaging in prostitution without third-party involvement. The prevalence of the problem remained unclear, although the UN Children's Fund (UNICEF) estimated that 25 percent of the approximately 1,800 trafficked children were sexually exploited.

The law refers to child protection in general and is used to prosecute cases of abuses against children. Child pornography is prohibited. There is no minimum age for consensual sex and no statutory rape law. The legal age for marriage is 16 for women and 18 for men.

With support from international organizations, the government provided counseling support to former child soldiers. The government partnered with the UN Development Program to train and reinsert over 5,000 at-risk youth who took part in development projects in communities affected by the conflict.

International organizations assisted with programs to feed and shelter street children, the majority of whom lived in Brazzaville and Pointe Noire and were believed to be from the DRC, according to UNICEF. Children who lived on the streets were vulnerable to sexual exploitation and often fell prey to criminal elements such as drug smugglers. Many begged or sold cheap or stolen goods to support themselves.

Trafficking in Persons.—On August 27, the parliament passed a law prohibiting trafficking in persons, including children. Trafficking would be an illegal and prosecutable offense upon ratification by the president, which was pending at year's end.

There continued to be reports of trafficking of children by African immigrants from Benin, Cameroon, Guinea, Mali, Senegal, and Togo living in the country, as well as trafficking of children from the DRC. During the year there were no known cases of the government prosecuting any traffickers. The ministries of security, labor, and social affairs, as well as the gendarmerie, have responsibility for trafficking issues.

A 2007 UNICEF report indicated the country was a destination for trafficked persons, with an estimated 1,800 children reportedly trafficked in Brazzaville and Pointe Noire. There were reports that underage relatives of immigrants from West Africa could be victims of trafficking. There was no evidence of trafficking in adults. Children from West Africa worked as fishermen, shop workers, street sellers, or domestic servants. There were reports that some were physically abused.

In the originating countries of West Africa, suspected traffickers were believed to be either distant relatives or fellow countrymen of the victims. They recruited parents to sell their children with false promises to provide the children care or education and training, or visas to Europe or South Africa.

A joint program by UNICEF, local NGOs (most notably Action Against Trafficking of West African Children), and government officials in Pointe Noire continued successfully repatriating 23 West African children who claimed to have been trafficked, particularly from Benin.

There was no evidence of involvement of government officials in trafficking.

There were no further developments in the March 2008 arrest in Canada of the wife of a former cabinet official for suspected human trafficking.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, although the government generally did not enforce the law. During the year the governments of the Republic of the Congo and the DRC instituted an agreement to allow persons with disabilities to travel cost-free between the two countries.

There were no laws mandating access for persons with disabilities. The Ministry of Social Affairs is the lead ministry responsible for these issues.

National/Racial/Ethnic Minorities.—The law prohibits discrimination based on ethnicity; however, the government did not effectively enforce this prohibition.

Regional ethnic discrimination existed among all ethnic groups and was evident in government and private sector hiring and buying patterns. The relationship between ethnic, regional, and political cleavages was inexact. Many of the supporters of the government included persons mostly from northern ethnic groups, such as the president's Mbochi group and related clans.

Indigenous People.—According to local NGOs, Pygmies were severely marginalized in employment, health services, and education, in part due to their isolation in remote areas of the country and their different cultural norms. Pygmies were usually considered as socially inferior and had little political voice; however, in recent years several Pygmy rights groups have developed programs and were actively focusing on these issues. Many Pygmies were not aware of the concept of voting and had minimal ability to influence government decisions affecting their interests.

Some NGOs asserted that many indigenous groups, who lived primarily in forest regions, did not enjoy equal treatment in the predominantly Bantu society. Indigenous people were estimated to constitute 10 per cent of the population or 300,000 persons.

The government also disbanded several business operations in northern Congo in which Bantu groups were misusing and abusing the labor of the Ba'aka (Pygmy) peoples. Pygmies were notably more prevalent in the hunting and natural healing professions.

Omer Gapa, a prominent former government official who was arrested in March 2008 in connection with the disappearance of an indigenous girl in 1989, was awaiting trial at year's end.

The National Network of Indigenous People of Congo continued its campaigns directed at the government, civil society, and international organizations to improve Pygmy living conditions.

Some NGOs claimed that Bantu ethnic groups exploited Pygmies, possibly including children, as cheap labor; however, as in previous years, there was little official information regarding the extent of the problem.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The constitution prohibits discrimination based on political, sexual, or religious orientation. There was not a large openly gay or lesbian community due to the social stigma associated with homosexual conduct. Colonial legislation from 1810 prohibits homosexual conduct and prescribes punishment of up to two years' imprisonment; however, the law was rarely enforced. The most recent arrest under this law was in 1996, when several individuals were arrested in Pointe Noire and briefly detained for homosexual behavior. There were no known cases of violence or discrimination against lesbians, gays, bisexuals, or transgender persons during the year. While discrimination may exist due to the social stigma surrounding homosexual conduct, no such cases were reported to NGOs or covered by the media.

Other Societal Violence or Discrimination.—Persons with HIV/AIDS were fairly well organized and sought fair treatment, especially regarding employment. NGOs worked widely on HIV/AIDS issues, including raising public awareness that those living with HIV/AIDS were still able to contribute to society. The law provides avenues for persons to file lawsuits if they were, for example, terminated from employment due to their HIV/AIDS status.

Section 7. Worker Rights

a. The Right of Association.—The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice. However, members of the security forces and other essential services do not have this right. Nearly all workers in the public sector and approximately 25 percent of workers in the formal private sector were union members. The law allows unions to conduct their activities without interference, and the government protected this right in practice.

Workers have the right to strike, provided all conciliation and nonbinding arbitration procedures have been exhausted and due notice has been given.

b. The Right to Organize and Bargain Collectively.—The law also provides for the right to bargain collectively, and workers exercised this right freely, although collective bargaining was not widespread due to severe economic conditions.

There were no reports that antiunion discrimination occurred. Most trade unions were reportedly weak and subject to government influence; as a result, workers' demonstrations were frequently prohibited, often by the unions themselves. There were no reports during the year of employers firing workers for union activity.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children. Unlike in previous years, while there were unconfirmed reports that such practices occurred, no such cases were documented either by NGOs or the Ministry of Labor.

The government has not repealed a 1960 law that allows persons to be requisitioned for work of public interest and provides for their possible imprisonment if they refuse. However, there were no reports of the law being used or enforced.

d. Prohibition of Child Labor and Minimum Age for Employment.—Although there are laws and policies designed to protect children from exploitation in the workplace, child labor was a problem. The minimum age for employment or internships was 16 years; however, this law generally was not enforced, particularly in rural areas and in the informal sector. Children worked with their families on farms or in small businesses in the informal sector without government monitoring.

Among trafficked children, the most common forms of child labor were in markets or in the fishing industry where children were subject to harsh conditions, long hours, and little or no pay. Approximately 23 percent of trafficked children were forced into prostitution. There were no official statistics on general child labor.

The Ministry of Labor, which is responsible for enforcing child labor laws, concentrated its limited resources on the formal wage sector, where its efforts generally were effective. As in previous years, limited resources prevented the ministry from carrying out regular child labor inspection trips, although at least three labor inspections occurred during the year.

International aid groups reported little change during the year in child labor conditions; the problem existed, but had neither worsened nor improved.

e. Acceptable Conditions of Work.—The national minimum wage, which was 54,000 CFA (\$110) per month in the formal sector, did not provide a decent standard of living for a worker and family. Wage floors established in the 1980s for various sectors have remained largely unchanged and were not considered relevant, as wages in the formal sector are paid above the minimum levels, although often not by much. There was no official minimum wage for the agricultural and other informal sectors. High urban prices and dependent extended families obliged many workers, including teachers and health workers, to seek secondary employment, mainly in the informal sector. The bulk of back salaries for government and parastatal workers dating to the late 1990s civil conflict period remained unpaid.

The law provides for a standard workweek of seven hours per day, six days a week with a one-hour lunch break. There was no legal limit on the number of hours worked per week. The law stipulates that overtime must be paid for all work in excess of 42 hours per week; however, there is no legal prohibition against excessive compulsory overtime. Overtime was subject to agreement between employer and employee. These standards were generally observed, and workers were usually paid in cash for overtime work beyond the standard 42-hour workweek.

Although health and safety regulations require biannual visits by inspectors from the Ministry of Labor, such visits occurred much less frequently, and enforcement of findings was uneven. Unions generally were vigilant in calling attention to dangerous working conditions; however, the observance of safety standards often was lax. Workers have no specific right to remove themselves from situations that endanger their health or safety without jeopardy to their continued employment. There were no exceptions for foreign or migrant workers.

COTE D'IVOIRE

Cote d'Ivoire is a democratic republic with an estimated population of 21 million. Laurent Gbagbo, candidate of the Ivoirian People's Front (FPI), became the country's third president in 2000. The 2000 presidential election, which excluded two of the major political parties, the Democratic Party of Cote d'Ivoire (PDCI) and the Rally for Republicans (RDR), was marred by significant violence and irregularities.

In 2002 a failed coup attempt evolved into a rebellion, which split control of the country between the rebel New Forces (FN) in the north and the government in the south. The failure of subsequent peace accords resulted in the 2004 deployment of 6,000 peacekeepers under the UN Operation in Cote d'Ivoire (UNOCI), who joined the 4,000-member French Operation Licorne peacekeeping force already in the country. Approximately 7,200 UNOCI and 900 Licorne peacekeepers remained in the country to support the ongoing peace process. Civilian authorities generally maintained effective control of the security forces in government-controlled zones; however, FN military authorities generally did not maintain effective control of the security forces in FN-controlled zones.

In 2007 President Gbagbo and FN rebel leader Guillaume Soro signed the Ouagadougou Political Agreement (OPA), which mandated elections, determination of citizenship, disarmament of armed factions, and the reunification of the north and south. In 2008 the zone of confidence separating the north from the south was dismantled. Elections scheduled for November were postponed, and there was little progress on disarmament and other key tenets of the OPA during the year. On determination of citizenship, however, more than 6.5 million persons registered during the nine-month identification and voter registration process, which ended on June 30. With data collected during this process, the Independent Electoral Commission (CEI) prepared a provisional electoral list of registered voters.

The following human rights abuses were reported in areas under effective government control: restriction of citizens' right to change their government; arbitrary and unlawful killings, including summary executions; torture and other cruel, inhuman, or degrading treatment and punishment; rape of civilians; life-threatening prison and detention center conditions; official impunity; arbitrary arrest and detention; denial of fair public trial; arbitrary interference with privacy, family, home, and correspondence; police harassment and abuse of noncitizen Africans; use of excessive force and other abuses in internal conflicts; restrictions on freedoms of speech, press, peaceful assembly, association, and movement; official corruption; discrimination and violence against women, including female genital mutilation (FGM); child abuse and exploitation, including forced and hazardous labor; forced labor; and trafficking in persons.

In areas under the effective control of the FN, there were reports of extrajudicial killings; torture and other cruel, inhuman, or degrading treatment and punishment; rape of civilians; life-threatening prison and detention center conditions; impunity; arbitrary arrest and detention; denial of fair public trial; arbitrary interference with privacy, family, and home; use of excessive force and other abuses in internal conflicts; restrictions on freedom of movement; corruption and extortion; discrimination and violence against women, including FGM; and child abuse and exploitation.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—Security forces continued to commit extrajudicial killings with impunity, and progovernment militia groups were responsible for killings and harassment. Crimes often went unreported or underreported due to fear of reprisals.

On May 20, police opened fire on a taxi in the Koumassi neighborhood of Abidjan, killing the taxi driver, Konate Aboudramane, and a passenger, police officer Konan N'guessan. Police continued to investigate the incident at year's end.

Unlike in the previous year, there were no reports that security forces killed demonstrators.

Gendarme Drissa Dante, who shot and killed a 15-year-old girl in April 2008 while attempting to disperse an angry crowd, was set free on provisional liberty after spending a few weeks in detention. He was awaiting trial at year's end.

The government took no action against police who fired on protestors in Abidjan in April 2008, killing one demonstrator.

Information became available during the year that in December 2008 Abidjan police officer Amantchi Herve shot and killed a man who Herve believed was involved in the rape of his girlfriend; no action had been taken against Herve by year's end.

Security forces frequently resorted to lethal force to combat widespread crime and often committed crimes with impunity. Such cases often occurred when security forces apprehended suspects or tried to extort money from taxi drivers and merchants at checkpoints and roadblocks.

During the year there were a number of killings attributed to members of the security operations command center (CECOS), a government anticrime organization whose personnel were accused of human rights violations, racketeering, extortion, and harassment. Members of CECOS reportedly carried out executions of suspected thieves in Abidjan, although the Ministry of Interior (MOI) stated that all victims were criminals killed in the course of police anticrime activities.

On April 22, the Abidjan military tribunal sentenced a CECOS member to 15 years in prison for his involvement in the killing of two prison escapees who were beaten to death in 2007. There were no developments in other CECOS-related killings from previous years.

During the year several extrajudicial killings attributed to the FN were reported in FN-controlled zones and in the former zone of confidence.

On February 24, the UNOCI Human Rights Office reported that two FN soldiers executed a man in Seguela. The soldiers claimed the man was a notorious criminal

who resisted arrest. FN authorities arrested and detained the soldiers but released them 24 hours later. No further investigation regarding the incident HAD occurred by year's end.

On June 10, Ivo Issiaka, a 28-year-old Burkinabe national, died in custody at the gendarmerie headquarters in Vavoua and was buried by local FN authorities without a proper investigation or autopsy. An investigation conducted by the UNOCI Human Rights Office revealed that the victim had been beaten to death with machetes by FN soldiers.

The FN conducted no formal investigations into the following 2008 FN killings: the July killings of three men who allegedly stole from a village and attempted to escape, and the November killing of nine alleged insurgents during a military uprising in Seguela.

During the year the UNOCI Human Rights Office reported that a court prosecutor asked Bouake municipal authorities and morgue officials to retain the bodies of five persons executed by FN soldiers in 2007 as evidence for future investigations to determine the perpetrators and the circumstances of the deaths; however, no investigation had begun by year's end.

Members of the young patriots (a youth group with close ties to the ruling FPI party) who were responsible for summary executions in previous years continued to operate with impunity.

In Abidjan and the western part of the country, there were reports of atrocities, including killings by progovernment militia groups and armed bandits thought to be FN members.

b. Disappearance.—Unlike in the previous year, there were no reports of politically motivated disappearances; however, there were unconfirmed press reports that security forces participated in kidnappings.

The government made little effort to assist the continuing French investigation into the 2004 disappearance of Franco-Canadian journalist Guy Andre Kieffer; however, on April 23, First Lady Simone Gbagbo testified in Abidjan before French judges investigating the case.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution and law prohibit such practices; however, security forces, police, and FN soldiers beat and abused detainees and prisoners to punish them, extract confessions, or extort payments with impunity. Police officers forced detainees to perform degrading tasks under threat of physical harm and continued to harass and extort bribes from persons of northern origin or with northern names.

On March 23, three gendarmes severely beat a 40-year-old taxi driver for allegedly refusing them a taxi ride. The driver underwent surgery to his jaw and suffered injuries to his eyes, mouth, and head. Authorities promised to take disciplinary measures against the perpetrators, but they had not done so by year's end.

In September CECOS members arrested Seydou Kone, a teacher and RDR activist, for allegedly attempting to overthrow the government; Kone was subsequently detained incommunicado from September 12 to October 16 in the Abidjan correctional facility and penitentiary (MACA). According to Soungalo Coulibaly, RDR's secretary for human rights who visited Kone on October 16, Kone's body was scarred from the beatings he received while in detention. In December Coulibaly held a press conference to expose the abuse Kone received. No investigation had been conducted by year's end.

There continued to be reports that noncitizen Africans, mostly from neighboring countries, were subject to harassment and abuse by security forces and "self-defense" groups, including repeated document checks, security force extortion, and racketeering.

FN members tortured suspected government loyalists or allies of rival rebel leader Ibrahim Coulibaly in the zones under their control.

For example, Corporal Alpha Diabate, a close aide of FN Zone 8 commander Coulibaly Ousmane, was identified as the perpetrator responsible for torturing three cattle breeders in Odiene in May 2008. FN authorities had not taken any action against Diabate at year's end.

In February authorities released seven detainees in Bouna who were beaten and mistreated by FN soldiers for alleged involvement in December 2008 armed robberies.

Security forces raped women and girls.

For example, on January 11, two soldiers from a joint brigade composed of government security and defense forces (FDS) and FN soldiers raped a woman in Bouake. FN authorities arrested and detained the two soldiers.

On February 5, the UNOCI Human Rights Office reported that a police officer in San Pedro beat and raped a 16-year-old girl. Although the girl's mother filed an offi-

cial complaint, it was withdrawn a few days later when the police officer offered 350,000 CFA (\$700) and several bottles of liquor to the girl's family to settle the affair.

FN members raped women and girls in the north.

For example, in June the UNOCI Human Rights Office reported that FN soldier, Ouattara Ahmed, and a civilian, Coulibaly Soumaila, allegedly raped a 10-year-old girl in Bouake. Police arrested and detained the two men, along with five other persons, in connection with the rape.

On October 8, FN soldier Ouani Mamadou allegedly broke into a residence, raped a housekeeper, and attempted to rape a 13-year-old girl living in the house, but the girl managed to escape. The girl's father filed charges with police but withdrew the complaint after being threatened by FN soldiers. UNOCI human rights officers raised the issue with local authorities; however, no further action had been taken at year's end.

No further developments were reported in the 2008 case in which FDS and FN soldiers raped a 13-year-old girl in Kounahiri.

Authorities continued to detain Diabate Adama, an FN member and one of two alleged rapists of two girls in Bouake and Danane in April 2008. He had not been tried at year's end.

CECOS members also sexually abused civilians. For example, on June 25, following the intervention of the human rights nongovernmental organization (NGO) Ivoirian Movement for Human Rights (MIDH), the Abidjan military prosecutor arrested and detained seven CECOS members who forced a couple to have sexual intercourse in a public street while they filmed the incident. The CECOS members, who uploaded footage of the incident to the Internet, were charged with theft, physical assault, and "offense against public decency." The CECOS members involved were awaiting trial at year's end.

In December UNOCI issued a press release stating that it had established a commission of inquiry to probe new allegations of sexual abuse involving UN peacekeepers in the country. The UNOCI spokesperson, who stated that UNOCI was taking measures to ensure that investigations were conducted, indicated that UNOCI personnel involved in the 2007 sexual exploitation and abuse case of minors were returned to their home countries, where they stood trial.

Prison and Detention Center Conditions.—Conditions were poor and in some cases life threatening in the country's 33 prisons. In the 22 prisons that also served as detention centers, located in the area under government control in the south, overcrowding was a serious problem. For example, MACA, the country's main prison, was built for 1,500 persons but held approximately 5,200. Conditions in MACA were notoriously bad, especially for the poor; however, wealthier prisoners reportedly could "buy" extra cell space, food, and even staff to wash and iron their clothes. The government provided inadequate daily food rations, which resulted in cases of severe malnutrition if families of prisoners did not bring additional food. As of December 31, 187 prisoners had died in government-controlled prisons during the year, mostly due to malnutrition and disease. There were credible reports that prisoners frequently brutalized other prisoners for sleeping space and rations.

Male minors were held separately from adult men, but the physical barriers at MACA were inadequate to enforce complete separation. Some minors were detained with their adult accomplices. Pretrial detainees were held with convicted prisoners.

Prison conditions for women were particularly difficult, and health-care facilities were inadequate. There were continued reports that female prisoners engaged in sexual relations with wardens in exchange for food and privileges. Pregnant prisoners went to hospitals to give birth, but their children often lived with them in prison. The penitentiary accepted no responsibility for the care or feeding of the infants, although inmate mothers received help from local NGOs.

The government permitted access to prisons by the International Committee of the Red Cross (ICRC) and by local and international NGOs, including World Doctors, International Prisons' Friendship, Love Amour, Prisoners Without Borders, and the Ivoirian Islamic Medical Rescue Association.

Detention and prison conditions in FN zones were worse than in MACA, with detainees sometimes held in converted schools, movie theaters, or other buildings with poor air circulation and sanitary facilities. In August 2008, for example, UNOCI discovered a seven-foot-deep hole covered with iron bars that the FN was using as an illegal detention area. Nutrition and medical care were inadequate. Many detainees became ill, and some died from respiratory disease, tuberculosis, or malaria due to lack of medical care and unhygienic conditions.

The FN sometimes denied prison access to the ICRC and the UNOCI human rights division local teams; the FN also sometimes denied visitation rights to domestic human rights groups.

With financial assistance from a foreign government, the NGO Prisoners Without Borders completed renovations on all 11 prisons located in FN-controlled zones in 2008. However, by year's end the FN had not yet relinquished control of these prisons to government authorities.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention; however, both occurred frequently.

Role of the Police and Security Apparatus.—Security forces under the Ministries of Defense and Interior include the army, navy, air force, republican guard, presidential security force, and the gendarmerie, a branch of the armed forces with responsibility for general law enforcement. Police forces, which are under the jurisdiction of the MOI, include paramilitary rapid intervention units such as the antiriot brigade, the republican security company, and the directorate for territorial security (DST), a plainclothes investigating unit. In 2005 the MOI formed CECOS to combat rising crime in Abidjan. A central security staff collected and distributed information regarding crime and coordinated the activities of the security forces.

Poor training and supervision of security forces, corruption, impunity, and investigations conducted by security forces that were abusers resulted in general lawlessness and public fear of pressing charges. Racketeering at roadblocks remained a serious problem. Security forces harassed, intimidated, abused, and confiscated the official documents of persons who refused to pay bribes. Security forces also frequently resorted to excessive and sometimes lethal force while conducting security operations and dispersing demonstrations. Police reportedly solicited sexual favors from prostitutes in exchange for not arresting them. There were credible reports that security forces in Abidjan rented their uniforms and weapons to persons wanting to engage in criminal activity. Security forces also occasionally failed to prevent violence.

The government sometimes took action against police officers who committed abuses; however, it generally did not investigate or punish effectively the perpetrators, nor did it consistently prosecute persons responsible for unlawful killings and disappearances in previous years.

Arrest Procedures and Treatment While in Detention.—Officials must have warrants to conduct searches, although police sometimes used a general search warrant without a name or address. Detainees were not always informed promptly of charges against them, especially in cases concerning state security. Defendants do not have the right to a judicial determination of the legality of their detention. A bail system existed solely at the discretion of the judge trying the case. Detainees were generally allowed access to lawyers; however, in cases involving possible complicity with rebels or other matters of national security, detainees were frequently denied access to lawyers and family members. For more serious crimes, those who could not afford to pay for lawyers were provided lawyers by the state, but alleged offenders charged with less serious offenses were often without representation. Incommunicado detention was a problem, and a few persons held in this manner were tortured during the year (see section 1.c.).

A public prosecutor may order the detention of a suspect for 48 hours without bringing charges, and in special cases such as suspected actions against state security, the law permits an additional 48-hour period. According to local human rights groups, police often held persons for more than the 48-hour legal limit without bringing charges, and magistrates often were unable to verify that detainees, who were not charged, were released. A magistrate can order pretrial detention for up to four months by submitting a written justification each month to the minister of justice.

The DST is charged with collecting and analyzing information relating to national security. The DST has the authority to hold persons for up to four days without charges; however, human rights groups stated there were numerous cases of detentions exceeding the statutory limit.

In January the DST released Lieutenant Colonel Lancine Fofana, Lieutenant Colonel Moussa Cherif, and Commander Doulaye Sekongo, all of whom had been in detention since their arrest in October 2008. The DST had arrested and detained the officers for allegedly instigating unrest among lower-ranking soldiers, disturbing state security, and being linked to the disappearance of weapons.

On May 6, authorities released nine of the 11 persons arrested in January 2008 for alleged coup plotting against the state with former rebel and exiled military leader Ibrahim Coulibaly. French freelance journalist Jean-Paul Ney was among those released.

There were numerous reports that security forces arbitrarily arrested merchants and transporters, often in conjunction with harassment and requests for bribes.

Police and gendarmes detained persons in various military camps in Abidjan; however, there were fewer such reports than in the previous year.

Prolonged pretrial detention was a problem. Despite the legal limit of 10 months of pretrial detention in civil cases and 22 months in criminal cases, some pretrial detainees were held in detention for years. As of December 31, the national prison administration reported that 31 percent of the 12,036 persons held in the 22 government-controlled prisons were pretrial detainees.

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary; however, in practice the judiciary was subject to influence from the executive branch, the military, and other outside forces. Although the judiciary was independent in ordinary criminal cases, it followed the lead of the executive in national security or politically sensitive cases. There also were credible reports that judges were corrupt. It was common for judges receptive to bribery to distort the merits of a case. Judges also reportedly accepted bribes in the form of money and sexual favors (see section 4). The judiciary was slow and inefficient.

The formal judicial system is headed by a Supreme Court and includes a court of appeals, lower courts, and a constitutional council. The law grants the president the power to replace the head of the Supreme Court after a new parliament is convened.

Trial Procedures.—The government did not always respect the presumption of innocence. The law provides for the right to public trial, although key evidence sometimes is given secretly. Juries are used only in trials at the court of assizes, which convenes as required to try criminal cases.

Defendants have the right to be present at their trial, but they may not present witnesses or evidence on their behalf or question any witnesses brought to testify against them. Defendants accused of felonies or capital crimes have the right to legal counsel. Other defendants may also seek legal counsel, but it is not obligatory. The judicial system provides for court-appointed attorneys; however, no free legal assistance was available, aside from infrequent instances in which members of the bar provided free advice to defendants for limited periods. Defendants may not access government-held evidence, although their attorneys have the legal right to do so. Courts may try defendants in their absence. Those convicted have the right of appeal, although higher courts rarely overturned verdicts.

In rural areas traditional institutions often administered justice at the village level, handling domestic disputes and minor land questions in accordance with customary law. Dispute resolution was by extended debate, with no known instance of physical punishment. The formal court system increasingly superseded these traditional mechanisms. The law specifically provides for a grand mediator, appointed by the president, to bridge traditional and modern methods of dispute resolution. Grand mediators did not operate during the year.

Military courts did not try civilians and provided the same rights as civil criminal courts. Although there were no appellate courts within the military court system, persons convicted by a military tribunal may petition the Supreme Court to set aside the tribunal's verdict and order a retrial.

Little information was available on the judicial system used by the FN in the northern and western regions.

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

Civil Judicial Procedures and Remedies.—The constitution and law provide for an independent judiciary in civil matters; however, the judiciary was subject to corruption, outside influence, and favoritism based on family and ethnic ties (see section 4). Citizens can bring lawsuits seeking damages for, or cessation of, a human rights violation; however, they did so infrequently. The judiciary was slow and inefficient, and there were problems enforcing domestic court orders.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and law provide for these rights; however, the government did not respect these rights in practice, although there were fewer reports of violations than in previous years. Officials must have warrants to conduct searches, must have the prosecutor's agreement to retain any evidence seized in a search, and are required to have witnesses to a search, which may take place at any time; however, in practice police sometimes used a general search warrant without a name or address.

Security forces monitored private telephone conversations, but the extent of the practice was unknown. The government admitted that it listened to fixed line and cellular telephone calls. Authorities monitored letters and parcels at the post office for potential criminal activity, and they were believed to monitor private correspondence, although there was no evidence of this activity. Members of the government reportedly continued to use students as informants.

The FN continued to use confiscated property and vehicles of civil servants and those believed to be loyal to President Gbagbo; however, the FN vacated some of the property confiscated in previous years.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution and law provide for freedom of speech and of the press, but the government restricted these rights in practice. Following the 2002 rebellion, the government reduced press freedoms in the name of patriotism and national unity. Journalists continued to practice self-censorship for fear of retribution. Government officials aggressively used the court system to punish critics.

Individuals who criticized the government risked reprisal. For example, on March 20, the DST arrested and detained Anaky Kobena, president of the small opposition party Movement of the Forces of the Future, after a television interview in which he encouraged citizens to follow the example of the recent coup in Madagascar. The DST charged him with “attempts against state security.” Authorities released him within 24 hours of his arrest.

In January 2008, President Gbagbo nominated an independent board of directors for the organization that publishes *Fraternite Matin*, the government’s daily newspaper. Although *Fraternite Matin* had the largest circulation of any daily, it rarely criticized government policy. However, a number of private newspapers frequently criticized government policy, the president, and the ruling party. Most newspapers were politicized and sometimes resorted to fabricated stories to defame political opponents.

Security forces continued to harass journalists. Outspoken members of the press, particularly those working for opposition party newspapers, continued to suffer physical intimidation from groups aligned with the ruling FPI party.

On March 4, the independent *Le Nouveau Reveil* newspaper published a front-page article entitled “Gbagbo’s Close Associates Pocket 4 Billion CFA in State Funds.” The article, which highlighted First Lady Simone Gbagbo’s ties to alleged embezzlers, resulted in death threats to the newspaper’s publishers and mass destruction of that day’s newspapers by organized groups of young vandals. No action was taken against progovernment youth groups who attacked, threatened, or harassed journalists.

On March 19, authorities arrested and jailed Nanankoua Gnamanthe, a journalist with the opposition newspaper *Le Nouveau Reveil*, for publishing an article comparing President Gbagbo and his close associates to “Ali Baba and the 40 thieves.” Gnamanthe was freed without charges on March 31, after a court called for his release. However, the publication in which Gnamanthe’s article appeared was fined 40 million CFA (approximately \$80,000) and suspended for eight months.

In March all charges against Denis Kah Zion, publisher of *Le Nouveau Reveil*, and his chief editor, Andre Silver Konan, were dropped. Their lawyer convinced a judge to dismiss the charges against them since the allowed time to bring them to trial had elapsed. Both journalists were briefly imprisoned for “contempt of the head of state” in 2007.

The government also harassed and imprisoned foreign journalists. On May 6, French freelance journalist Jean-Paul Ney, who had been arrested on charges of threatening national security in 2007, was released from prison, one day after Alain Joyandet, the French secretary of state for cooperation, met with President Gbagbo.

Private radio stations did not have complete control over their editorial content. National broadcast regulations prohibit the transmission of any political commentary. The government used the national audiovisual communication council (CNCA), controlled by the ruling party, to closely monitor Radio Nostalgie, reportedly because the major shareholders of the company were close to RDR president Alassane Ouattara.

The government did not interfere with UNOCI’s radio station, UNOCI-FM. However, like the approximately 121 proximity and community radios in the country, UNOCI-FM’s 19 proximity and community radio partners were subject to national regulations, which prohibit the transmission of politically related messages.

The government and the ruling FPI continued to exercise considerable influence over the official media’s television program content and news coverage. During the year opposition leaders frequently complained that they were not granted equal television airtime on official media.

The media played a role in inflaming tensions, and newspapers backed by political parties occasionally published inflammatory editorials. The Ivoirian Observatory on Press Freedom and Ethics and the National Press Commission, which enforced regulations regarding creation, ownership, and freedom of the press, regularly urged journalists to practice moderation.

The law authorizes the government to initiate criminal libel prosecutions against officials. In addition, the state may criminalize a civil libel suit at its discretion or at the request of the plaintiff. Criminal libel was punishable by three months to two years in prison.

In December 2008, after completing his one-year sentence in MACA, Antoine Assale Tiemoko, an NGO chairman charged with defamation for publishing a paper on judicial corruption, was released.

The FN broadcast its own programming from Bouake, which included radio and television shows that were heard in towns and villages around Bouake and, according to some reports, in the political capital, Yamoussoukro. In the western part of the country, the FN broadcast on a local radio station from Man. The FN continued to allow broadcasts of government television or radio programs in its zones. The FN also allowed distribution of all progovernment newspapers and most independent newspapers in its territory.

On December 1, the CNCA called for the closure of "unauthorized" FN radio and television stations, stating that some stations were not legally authorized to broadcast messages. Some FN stations chose to ignore the order and were still operating at year's end.

No action was taken against FN members who beat, harassed, and killed journalists in previous years.

Internet Freedom.—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Citizens had access to the Internet at Internet cafes, but home access was prohibitively expensive for most persons. According to International Telecommunication Union statistics for 2008, approximately 3.21 percent of inhabitants used the Internet.

Academic Freedom and Cultural Events.—The government restricted academic freedom. The Student Federation of Cote d'Ivoire (FESCI), the progovernment militant student group created in the early 1990s, generated a climate of fear and intimidation at universities and secondary schools and regularly stopped classes, forced students to attend meetings, and threatened professors who interfered in their activities. The government controlled most educational facilities, and a presidential decree required authorization for all meetings on campuses.

Many prominent scholars active in opposition politics retained their positions at state educational facilities; however, some teachers and professors suggested that they had been transferred, or feared that they could be transferred, to less desirable positions because of their political activities. According to student union statements, security forces continued to use students as informants to monitor political activities at the University of Abidjan.

Violent attacks by FESCI members against students and teachers continued during the year.

On January 7, approximately 60 FESCI members attacked members of the General Association of Students in Cote d'Ivoire, a rival student union, with truncheons, iron bars, and stones. Four association members were seriously injured. When two members of the local human rights group MIDH went to investigate, FESCI students sequestered and assaulted them before they were released.

On April 24, in Daloa, a rival group of students killed one FESCI member. In retaliation other FESCI members staged violent demonstrations and erected roadblocks in the city. Schools in the area were forced to close for three days.

In December competing FESCI factions clashed in several cities following a disputed FESCI election in which Augustin Mian, FESCI secretary general, was reelected for a second term. Credible reports indicated that both factions tried to intimidate students into supporting them.

In May 2008 international NGO Human Rights Watch presented a report entitled *The Best School: Student Violence, Impunity, and the Crisis in Cote d'Ivoire*, which documented numerous cases of violence, extortion, racketeering, torture, summary execution, and rape committed with total impunity by FESCI members. No action was taken against FESCI members responsible for violent incidents reported in previous years.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The law allows for freedom of assembly; however, the government sometimes restricted this right in practice. Groups that wished to hold demonstrations or rallies in stadiums or other enclosed spaces were required by law to submit a written notice of their desire to the Ministry of Security or the MOI three days before the proposed event. No law expressly authorizes the government to ban public meetings or events for which advance notice has been given in the required manner, but the govern-

ment prohibited specific events deemed prejudicial to public order. Even if authorization for an event was granted, the government could later revoke it. In 2006 President Gbagbo renewed a ban on all forms of outdoor public demonstrations in Abidjan. The ban had not been lifted at year's end.

Police occasionally dispersed antigovernment demonstrations with force, resulting in injuries. There were no developments in cases from previous years in which police used force to disperse demonstrations.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right; however, the law prohibits the formation of political parties along ethnic or religious lines, although both were key factors in some parties' membership.

c. Freedom of Religion.—The constitution and law provide for freedom of religion, and the government generally respected this right in practice. Although the country's political conflict lay along ethnic rather than religious lines, political and religious affiliations tended to follow ethnic lines. Consequently, religious affiliation was an important marker of political alliance. There is no state religion; however, for historical reasons, government officials informally have favored Christianity, in particular the Catholic Church. For example, Catholic schools receive government subsidies.

Some Muslims believed that their religious or ethnic affiliation made them targets of discrimination by the government with regard to both employment and the renewal of national identity cards. As northern Muslims shared names, style of dress, and customs with several predominantly Muslim neighboring countries, they sometimes were wrongly accused of attempting to obtain nationality cards illegally to vote or otherwise take advantage of citizenship.

The law requires religious groups desiring to operate in the country to register; however, registration was routinely granted.

Societal Abuses and Discrimination.—Societal discrimination against Muslims and followers of indigenous religious beliefs continued. Other groups, particularly evangelical Christians, complained that local officials sometimes discriminated against them and perpetrated sectarian hostility. The ongoing political crisis caused some divisions along religious lines.

The country's Jewish community numbered less than 100 persons. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution and law do not provide specifically for freedom of movement, foreign travel, emigration, or repatriation, and the government restricted freedom of movement during the year.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

There were frequent restrictions on internal travel. A curfew remained in place, prohibiting citizens from entering and leaving Yamoussoukro and Abidjan city limits between midnight and 5:00 a.m. Security forces, local civilian "self-defense" committees, and water, forestry, and customs officials frequently erected and operated roadblocks on major roads where they regularly extorted money from travelers.

Persons living under FN authority continued to face harassment and extortion when trying to travel between towns and to and from the government-controlled south.

In February residents of Agbangnassou complained to the UNOCI Human Rights Office that FN soldiers were demanding "crossing fees" of 2,000 to 4,000 CFA (approximately \$4 to \$8) to travel to and from Bouake. The villagers complained that these fees prevented pregnant women and other vulnerable persons from traveling to receive medical care.

Security forces also victimized northerners when they tried to cross into the zone under government control. The cost of either paying one's way through the various barricades or hiring a "money runner" to do so was substantial. Government officials reported the round trip cost for citizens in the north to travel from Bouake and other cities to Yamoussoukro to cash paychecks to be between 20,000 to 30,000 CFA (\$40 to \$60). A money courier or informal banking service cost either 5,000 CFA (\$10) or a flat percentage of the amount transferred.

At the end of 2008, approximately 70 percent of the private banks and government financial services had reopened in the north, thus making it unnecessary for many workers and retirees to travel to Bouake for banking operations. In the west

the situation remained unchanged; private banks and government financial services had not yet resumed operation.

The law specifically prohibits forced exile, and no persons were forcibly exiled during the year.

Internally Displaced Persons (IDPs).—Since the signing of the OPA in 2007, important strides made toward peace promoted spontaneous and assisted returns of IDPs to their homes. As of November the UN Office for the Coordination of Humanitarian Affairs estimated that 88,986 IDPs displaced by the 2002 crisis had returned to their villages in the west; however, 31,000 IDPs continued to live with host families and to require assistance.

During the crisis progovernment and rebel forces did not generally target civilians, but ethnic conflict and fighting forced many persons to flee the zones of conflict, and others simply felt uncomfortable living on the side of the divided country where they initially found themselves. Roadblocks and toll collection points made it difficult for civilians to move throughout the country. IDPs continued to place heavy burdens on host communities, in part due to the prolonged nature of the crisis.

Government assistance, especially in the north and west where civil servants and infrastructure were only partially in place, did not meet the needs of these IDPs. International and local NGOs worked to fill the gap.

The Ministry of Foreign Affairs and the Ministry of Solidarity and War Victims worked closely with UN agencies on IDP matters to ensure that the country's plans for IDP resettlement conformed to UN internal displacement guidelines.

During the year UN agencies and local authorities continued to facilitate the small-scale return of IDPs to several locations in the west of the country. In December the International Organization for Migration estimated that 200 IDPs, mostly of Burkinabe origin, remained at the Guiglo Temporary Center for Assistance to Displaced People, despite its closure in July 2008. The government had not addressed this situation by year's end.

New population displacements continued in the western region, particularly in the area around Guiglo and in the former zone of confidence, although on a much smaller scale than had occurred in previous years.

Protection of Refugees.—The constitution and law provide for the granting of asylum or refugee status in accordance with the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and the government has established a system for providing protections to refugees. The government is a signatory to the 1969 Organization of African Unity Convention Governing Specific Aspects of the Refugee Problem in Africa, and the law provides for asylum status to be granted in accordance with this convention.

In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government granted refugee status and asylum.

The government also provided temporary protection for individuals who may not qualify as refugees under the 1951 Convention or the 1967 Protocol.

Defense and security officers occasionally did not honor identity documents issued to refugees by the government or by the UNHCR. There were fewer reports than in previous years that security forces destroyed refugees' identity documents or arbitrarily detained, verbally harassed, and beat refugees at checkpoints.

Liberians made up the majority of the country's refugees. Those who arrived in the country before the 2003 peace agreement in Liberia benefited from group eligibility and received temporary refugee cards. Liberians who arrived in the country after the peace agreement did not receive temporary cards. Under certain circumstances, some asylum seekers who were not granted refugee status by the government were provided refugee certificates by the UNHCR. The identity card law includes a provision for identity cards to be issued to non-Liberian individuals older than 14 whose refugee status has been granted by the National Eligibility Commission.

The government facilitated local integration for refugees in the most extreme situations by issuing resident permits to all refugees over the age of 14 to allow them to move freely in the country. The national office of identification, together with the UNHCR and the Ivorian refugee and the stateless persons aid and assistance office, continued to provide refugee identity cards to undocumented Liberian refugees, which allowed them to reside and work in the country legally for the duration of their refugee status. Refugees also had access to naturalization.

The government continued to assist the safe, voluntary return of refugees to their homes. As of June 30, the UNHCR found that 24,256 Liberian refugees and 555 refugees from other countries remained in the country.

Stateless Persons.—In the absence of reliable data, the scale of statelessness in the country was unclear but unofficially estimated to be in the thousands. Citizenship is derived from one's parents rather than by birth within the country's territory, and birth registration was not universal. The country had habitual residents who were either legally stateless or effectively stateless, and the government did not effectively implement laws and policies to provide such persons the opportunity to gain nationality on a nondiscriminatory basis. During the year the UNHCR continued to work with the ministries of justice and interior to raise awareness of statelessness.

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

The constitution and law provide for the right of citizens to change their government peacefully through democratic means; however, citizens were prevented from exercising this right in practice. President Gbagbo and the national assembly remained in office at year's end despite the expiration of their terms in 2005.

Elections and Political Participation.—After a December 3-4 meeting, the permanent consultation framework (CPC) for the OPA formally announced the postponement of presidential elections, which had been scheduled for November 29. The CPC stated that additional time was necessary to correct irregularities in the provisional electoral list and distribute identification and voter cards. A new election date was not announced, and those who participated in the identification and voter registration process were awaiting the distribution of their identity cards and voter cards at year's end.

The country took several steps toward reconciliation during the year. The identification and voter registration process, which began in September 2008 and was initially scheduled to last 45 days, ended on June 30. More than 6.5 million persons participated in the process. With data collected during this process, the CEI prepared a provisional electoral list and posted it for nationwide consultation on November 22. The following day, local CEIs began processing challenges to this list. Although the dispute period was scheduled to end in December, the process continued at year's end.

In 2007, following several failed political accords, President Gbagbo and FN rebel leader Guillaume Soro signed the OPA, which established a transitional government with Soro as prime minister and called for presidential elections in 2008.

The 2000 election in which President Laurent Gbagbo came to power followed several postponements and a controversial Supreme Court decision disqualifying 14 of the 19 candidates, including RDR leader Ouattara and former president Bedie, president of the PDCI. As a result of the ruling, most international election observers declined to monitor the election. When preliminary results showed Gbagbo leading by a significant margin, a National Elections Commission official announced the commission's dissolution and declared General Guei the victor with 56 percent of the vote. Mass demonstrations by Gbagbo supporters erupted, resulting in numerous deaths and injuries. The next day national radio and television reported that General Guei had stepped down and that Laurent Gbagbo had assumed the presidency.

The 2000 national assembly election was marred by violence, irregularities, and a very low participation rate. In addition, the election could not take place in 26 electoral districts in the north because RDR activists disrupted polling places, burned ballots, and threatened the security of election officials. Following legislative by-elections in 2001, 223 of the 225 seats of the national assembly were filled.

Women held 19 of 225 seats in the last elected national assembly, whose mandate expired at the end of 2005. The first vice president of the national assembly was a woman. Women held four of the 33 ministerial positions in Prime Minister Soro's cabinet. Of the 41 Supreme Court justices, four were women. Henriette Dagri Diabate served as secretary general of the RDR, the party's second-ranking position.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. Corruption had the greatest impact on judicial proceedings; contract awards, customs and tax issues, and accountability of the security forces (see also section 1.e.).

The 23 cocoa and coffee industry officials arrested in June 2008 for allegedly embezzling 100 billion CFA (\$200 million), remained in MACA at year's end awaiting trial. In September four of the officials filed a formal complaint against the government with the Economic Community of West African States Court of Justice in Nigeria, claiming infringement of their right to a fair trial and violation of their civil liberties. Their case continued at year's end.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of international and domestic human rights groups, including the Ivoirian League for Human Rights (LIDHO) and the MIDH, generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. The government occasionally met with some of these groups.

During the year UNOCI, LIDHO, MIDH, Action for the Defense of Human Rights (APDH), and other independent human rights groups gathered evidence and testimony on human rights cases, published information in reports and in independent local daily newspapers, and criticized government security forces.

FESCI continued to threaten and harass human rights groups. The government took no action against the student group for the destruction of LIDHO and APDH headquarters in 2007. No cases were opened against perpetrators who threatened and harassed members of human rights organizations in previous years.

During the year the government regularly permitted the World Food Program, the ICRC, and other international organizations to conduct humanitarian operations. Eleven UN agencies, including the International Labor Organization and the World Health Organization, were resident and active throughout the year. There were no reports that the government restricted their access to certain areas deemed sensitive or denigrated their work.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, ethnicity, national origin, gender, or religion; however, the government did not effectively enforce the law.

Women.—The law prohibits rape and provides for prison terms of five to 20 years; however, the government did not enforce this law in practice, and rape was a widespread problem. The law does not specifically penalize spousal rape. Claims were most frequently brought against child rapists. A life sentence can be imposed in cases of gang rape if the rapists are related to or hold positions of authority over the victim or if the victim is under 15 years of age. For example, since 2007 the Court of Abidjan had received an average of 16 cases of child rape per month.

Women's advocacy groups continued to protest the indifference of authorities to female victims of violence, including rape. Women who reported rape or domestic violence to the police were often ignored. Many female victims were convinced by their relatives and police to seek an amicable resolution with the rapist rather than pursue a legal case. The Ministry of Family and Social Affairs sought justice on behalf of rape victims; however, families often preferred to settle out of court. During the year 12 persons were officially convicted and sentenced for rape.

There were continued reports of unidentified highway bandits raping and sexually assaulting women in the western part of the country, especially along the roads from Duekoue to Bangolo, Man to Biankouma, and Man to Toulepleu.

On January 12, a group of unidentified individuals armed with Kalashnikovs attacked passengers traveling on the Duekoue-Bangola road. They raped two women and injured a cyclist before fleeing.

On June 3, three alleged former members of a militia group broke into a residence, raped three women, and injured one man with a machete before stealing 140,000 CFA (\$280) and some personal belongings. An investigation continued at year's end.

The law does not specifically outlaw domestic violence, which continued to be a serious and widespread problem throughout the country. However, penalties for assault provide for prison terms of one to 20 years, depending on the extent of the offense. Government enforcement of domestic violence complaints remained minimal, however, partially because the courts and police viewed domestic violence as a problem to be addressed within the family. The exception was if serious bodily harm was inflicted or the victim lodged a complaint, in which case criminal proceedings could be initiated. Many victims' parents often urged withdrawal of a complaint because of the fear of social stigma on the family.

During the year the Ministry of Family and Social Affairs continued to provide limited assistance to victims of domestic violence and rape. The ministry's support included providing government-operated counseling centers with computers, printers, and other equipment for record keeping. Ministry officials visited a few victims in their homes to attempt to reconcile troubled couples and to remove domestic servants from homes in which they had been sexually abused.

The Committee to Fight Violence Against Women and Children (CNLV) did not operate a shelter or a hotline for abused women. Instead, committee members gave out their personal cell phone numbers on weekly radio programs. The committee also monitored abusive situations through frequent home visits. Young girls who

feared becoming victims of abuse, FGM, or forced marriage could appeal to the committee. The committee often stopped abuse by threatening legal action against offending parents or husbands.

The government continued to hold awareness-raising seminars on sexual violence for judicial and security personnel. As a result of the seminars, some security forces reportedly modified their behavior to provide victims with greater privacy, and courts began recording in private the testimony of rape victims who were minors. Judges also increased the provision of statistics and information on cases to enable the CNLV to follow up with victims.

Other cases of societal violence against women included FGM, dowry deaths, levirat (forcing a widow to marry her dead husband's brother), and sororat (forcing a woman to marry her dead sister's husband).

Prostitution is legal between consenting adults in private, and the practice was reported to be increasing due to worsening economic conditions. Soliciting and pandering are illegal. There were credible reports that police demanded bribes or sexual favors for allowing prostitution.

The law prohibits sexual harassment and prescribes penalties of between one and three years' imprisonment and a fine ranging between 360,000 and one million CFA (\$720 to \$2,000). However, the government rarely enforced the law, and such harassment was widespread and routinely accepted as a cultural norm.

Couples and individuals had the right to decide the number, spacing, and timing of their children, and to have the information and means to do so free from discrimination, coercion, and violence. In urban areas, access to contraception, skilled attendance during childbirth, including essential obstetric and postpartum care, was available to those women who could afford it. Pregnant women diagnosed with sexually transmitted infections, including HIV, were treated.

According to the poverty reduction strategy report issued by the Ministry of Planning in May, 12 percent of the poor had no access to a health center, and 26 percent had no access to a general hospital where information and skilled health care were provided. Transportation and costs of services were significant barriers for some women to have access to health centers and hospitals. The report also stated that 54 percent of the poor had to walk to a health center, 14 percent to a general hospital. Furthermore, threats or perceived threats of violence from husbands or family members were also an inhibiting factor for some women's access to family planning services located in the health centers.

A joint report by LIDHO and the International Rescue Committee published in March noted that police roadblocks sometimes prevented pregnant women from giving birth in health centers, resulting in women giving birth at home without professional assistance. The report also mentioned that some health center professionals defrauded pregnant women under the guise of providing services that were never rendered.

The law prohibits discrimination on the basis of gender; however, women experienced economic discrimination in access to employment, credit, and owning or managing businesses. Women occupied a subordinate role in society. Government policy encouraged full participation by women in social and economic life; however, there was considerable resistance among employers in the formal sector to hiring women, who were considered less dependable because of their potential for becoming pregnant. Some women also encountered difficulty in obtaining loans, as they could not meet the lending criteria established by banks, such as a title to a house and production of a profitable cash crop.

NGOs supervised efforts to create economic cooperatives to provide poor women access to small loans from the government or private microfinance banks. Women in the formal sector usually were paid at the same rate as men; however, because the tax code did not recognize women as heads of households, female workers were required to pay income tax at a higher rate than their male counterparts. Women's organizations continued to campaign for tax reform to enable single mothers, whose children have been recognized by their fathers, to receive deductions for their children. Inheritance law also discriminated against women.

Women's advocacy organizations continued to sponsor campaigns against forced marriage, marriage of minors, patterns of inheritance that excluded women, and other practices considered harmful to women and girls. For example, polygyny is illegal, although it remained a common cultural practice. Women's organizations also campaigned against legal provisions that discriminated against women. The coalition of women leaders and the Ministry of Family and Social Affairs continued their efforts to promote greater participation of women in political decision making and in presenting themselves as candidates in legislative and municipal elections.

Children.—Citizenship is derived from one's parents: at least one parent must be a citizen for a child to be considered Ivoirian at birth. The law provides parents a

three-month period to register their child's birth for a fee of 500 CFA (approximately \$1). The government registered all births when parents submitted documentation from a health clinic or hospital attesting that a birth had occurred. However, persons without proper identification documents could not register births. The government did not deny public services such as education or health care to children without documents; however, some schools required parents to present children's identity documents before they could be enrolled.

Primary education was not compulsory and usually ended when children reached 13 years of age; however, it was tuition-free. In principle students did not have to pay for books or fees; however, some still did so or rented books from street stalls because the government did not cover school fees and books for every student. Students who failed secondary school entrance exams did not qualify for free secondary education, and many families could not afford to pay for schooling.

Parental preference for educating boys rather than girls persisted, particularly in rural areas.

Teachers sometimes demanded sexual favors from students in exchange for money or good grades. The penalty for statutory rape or attempted rape of a child under the age of 16 is a prison sentence of one to three years and a fine of 100,000 to one million CFA (\$200 to \$2,000).

Children were victims of physical and sexual violence and abuse. Children accused of practicing witchcraft were placed in the care of pastors, who sometimes used violence to exorcize them. Although the ministries of family, labor, and justice worked to fight child abuse, a lack of coordination among ministries and inadequate resources hindered government efforts.

FGM was a serious problem. The law specifically forbids FGM and provides penalties for practitioners of up to five years' imprisonment and fines of 360,000 to two million CFA (\$720 to \$4,000). Double penalties apply to medical practitioners. An estimated 60 percent of women had been subjected to the procedure. FGM was practiced most frequently among rural populations in the north and west and to a lesser extent in the center and south. FGM usually was performed on girls before or at puberty as a rite of passage. Local NGOs continued public awareness programs to prevent FGM and worked to persuade FGM practitioners to stop the practice. No arrests related to FGM were made during the year.

The law prohibits the marriage of men under the age of 20, women under the age of 18, and persons under the age of 21 without the consent of their parents. The law specifically penalizes anyone who forces a minor under 18 years of age to enter a religious or customary matrimonial union. However, in conservative communities—particularly those in the north—traditional marriages were commonly performed with girls as young as 14 years of age.

Children engaged in prostitution for survival without third-party involvement, although the extent of the problem was unknown. Under the law, using, recruiting, or offering children for prostitution, or for pornographic films, pictures, or events is illegal, and violators can receive sentences ranging from one month to two years' imprisonment as well as fines of 30,000 to 300,000 CFA (\$66 to \$660). Statutory rape of a minor carries a punishment of one to three years in prison and a fine of 360,000 to 1,000,000 CFA (\$790 to \$2,200).

There were no reports during the year that progovernment militias or rebel forces recruited and used children as soldiers on either a voluntary or a forced basis. In 2007 the UN secretary-general's special representative on children in armed conflict removed the names of four progovernment militias and the FN from the annexes of the secretary general's Report on Children in Armed Conflict.

There were thousands of children living on the streets. NGOs dedicated to helping street children found it difficult to estimate the extent of the problem and determine whether these children had access to government services.

Trafficking in Persons.—The constitution and law do not prohibit trafficking in persons, and, despite governmental antitrafficking efforts, trafficking in persons remained a problem. No nationwide study had been conducted on the phenomenon, and the extent of the problem was unknown. There was no reliable estimate on the number of children intercepted or repatriated during the year.

The country was a source and destination country for trafficking in women and children, and internal trafficking was also a serious problem. Women and children were trafficked from Nigeria, Niger, Mali, Burkina Faso, Ghana, Togo, Benin, Guinea-Bissau, and Mauritania for the purposes of sexual exploitation and forced commercial, agricultural, and domestic servitude. Women and children were also trafficked from the country to other African, European, and Middle Eastern countries for sexual exploitation and agricultural and domestic labor.

The informal labor sectors were not regulated under existing labor laws; as a result, domestics, most nonindustrial farm laborers, and those who worked in the

country's broad range of street shops and restaurants remained outside formal government protection. Internal trafficking of girls nine to 15 years old to work as domestic servants in Abidjan and elsewhere in the more prosperous south remained a problem. Traffickers of local children often were relatives or friends of the victim's parents. Traffickers sometimes falsely promised parents that the children would learn a trade, but they often ended on the streets as vendors or working as domestic servants.

Due to the economic crisis, many parents allowed their children to be exploited to minimize the financial burden on the family. Because security forces were trained to search buses for trafficked children, traffickers continued to adapt their methods, including transporting a small number of children at a time by bicycle, train, or on foot, rather than attempting to move large groups of children into the country by bus.

Organized trafficking rings promised Nigerian women and girls that they would have jobs in restaurants and beauty salons in Abidjan; however, many of these victims were forced to work in brothels.

Children were trafficked into the country from neighboring countries to work in the informal sector in exchange for finder's fees. They were also trafficked to or within the country to work full or part time in the agricultural sector.

Traffickers can be prosecuted under laws prohibiting kidnapping, forced labor, and mistreatment; however, there was minimal law enforcement in government-held territories, and traffickers rarely were prosecuted.

The government cooperated with international investigations of trafficking.

The National Committee for the Fight Against Trafficking and Child Exploitation, which includes representatives from numerous government ministries and several national and international organizations and NGOs, is responsible for coordinating the government's implementation of the multilateral cooperative agreement; however, the committee did not meet during the year. The government continued to conducting awareness campaigns to educate local government officials, community leaders, and members of the 38 antitrafficking village committees established in 2007 and 2008 as part of the child trafficking monitoring system.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The law requires the government to educate and train persons with physical, mental, visual, auditory, and cerebral motor disabilities, hire them or help them find jobs, design houses and public facilities for wheelchair access, and adapt machines, tools, and work spaces for access and use by persons with disabilities. However, wheelchair-accessible facilities for persons with disabilities were not common, and there were few training and job assistance programs for persons with disabilities. The law also prohibits acts of violence against persons with disabilities and the abandonment of such persons; however, there were no reports that the government enforced these laws during the year.

There were no reports during the year that persons with disabilities were specific targets of abuse, but they encountered serious discrimination in employment and education. As promised in 2008, the government created 300 civil service jobs for persons with disabilities; however, persons with disabilities who were eligible for these jobs demonstrated in June after some government employers refused to employ them.

The government financially supported special schools, associations, and artisans' cooperatives for persons with disabilities, but many persons with physical disabilities begged on urban streets and in commercial zones for lack of other economic opportunities. Persons with mental disabilities often lived on the street.

The Ministry of Family and Social Affairs and the Federation of the Handicapped were responsible for protecting the rights of persons with disabilities.

National/Racial/Ethnic Minorities.—The country's population was ethnically diverse, and ethnic groups sometimes practiced societal discrimination against others on the basis of ethnicity. At least 25 percent of the population was foreign. Outdated or inadequate land ownership laws resulted in conflicts with ethnic and xenophobic overtones. There were reported clashes, usually over land tenure, between the native populations and other groups.

Police routinely abused and harassed noncitizen Africans residing in the country and occasionally harassed Lebanese merchants. Harassment by officials reflected the common belief that foreigners were responsible for high crime rates and instances of identity card fraud. Harassment of northerners, which increased markedly after the 2002 rebellion, generally continued to decline from the previous year. However, when local independent electoral commissions began examining challenges to the provisional electoral list in December, harassment of northerners suddenly in-

creased. Following denunciations from progovernment members, CECOS arrested hundreds of northerners and suspected immigrants living in the south and west, claiming suspects were using forged government documents to be included on the provisional voters' list.

Ethnic tensions in the west and southwest continued to lead to violence. In the west, and in Duekoue and Bangolo in particular, there continued to be violent clashes between the native population and members of the foreign community, particularly Burkinabe farmers.

Several incidents of ethnic violence resulted in deaths and injuries.

For example, on February 15, in the village of Tongbakro, Baoule farmers and Peulh cattle breeders clashed over the destruction of Baoule crops by Peulh-owned cattle. One cattle breeder died from gunshot wounds he received during the incident.

On March 12 and 13, youth groups in the western villages of Keibly and Diboke attacked returning former IDPs of Baoule ethnic origin to oppose their resettlement in the area. The UNOCI Human Rights Office reported that 18 persons were injured in the incident. One person was reported missing.

There were no further developments in the September 2008 land dispute violence between villagers from Abouabou and Gonzagueville, which resulted in seven deaths and numerous injuries.

There were no developments in the 2007 killing of businessman Sangare Adama.

In July 2008 the government adopted a new law on xenophobia, racism, and tribalism, making these forms of intolerance punishable by five to ten years' imprisonment.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Societal stigmatization of the lesbian, gay, bisexual, and transgender (LGBT) community was widespread, and the government did not act to counter it during the year. There were few LGBT organizations in the country. Arc en Ciel, the primary NGO representing the LGBT community, operated freely; however, the government required the organization to amend its by-laws to include non-LGBT members before the organization's status was officially approved.

There was no official discrimination based on sexual orientation in employment, housing, statelessness, or access to education or health care. However, gay men have been subjected to beatings, imprisonment, verbal abuse, humiliation, and extortion by police, gendarmes, and members of the armed forces.

Other Societal Violence or Discrimination.—The law does not provide for the protection of persons living with HIV/AIDS from societal and other forms of discrimination. Societal stigmatization of persons living with HIV/AIDS was widespread.

Section 7. Worker Rights

a. The Right of Association.—The law allows all citizens, except members of the police and military services, to form or join unions of their choice without excessive requirements, and workers exercised these rights in practice.

Only a small percentage of the workforce was organized, and most laborers worked in the informal sector, which included small farms, small roadside and street shops, and urban workshops. However, large industrial farms and some trades were organized, and there was an agricultural workers union. Of the 15 percent of workers in the formal sector, approximately 60 percent were unionized.

The law allows unions in the formal sector, which comprised approximately 1.5 million workers or 15 percent of the workforce, to conduct their activities without interference, and the government protected this right in practice.

The law provides for the right to strike, and workers generally exercised this right. However, the law requires a protracted series of negotiations and a six-day notification period before a strike may take place, making legal strikes difficult to organize and maintain.

b. The Right to Organize and Bargain Collectively.—The law provides for collective bargaining and grants all citizens, except members of the police and military services, the right to bargain collectively. Collective bargaining agreements were in effect in many major business enterprises and sectors of the civil service.

The law does not prohibit antiunion discrimination by employers or others against union members or organizers; however, the Ministry of Labor (MOL) did not report any complaints of antiunion discrimination and employer interference in union functions during the year. There were also no reports of workers fired for union activities who were not reinstated. Under the labor law, workers could not be fired for union activities, and this law was enforced.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and the government made efforts to enforce the law during the year. However, such practices occurred.

Instances of forced labor occurred in the informal labor sectors, which were not regulated under existing labor laws. Thus, domestics, most nonindustrial farm laborers, and those who worked in street shops and restaurants remained outside formal government protection. Forced adult labor occurred in small-scale and commercial production of agricultural products. There were reports of forced adult labor practices in rubber production, primarily in the form of long hours and low-paid work for workers who lived in conditions of effective indenture.

Forced child labor occurred (see section 7.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—There were laws against forced labor and the exploitation of children in the workplace; however, child labor remained a widespread problem. In most instances, the legal minimum working age is 14; however, the Ministry of Civil Service, Employment, and Administrative Reform enforced this provision effectively only in the civil service and in large multinational companies. Children are not allowed to work between 7:00 p.m. and 6:00 a.m. They routinely worked on family farms or as vendors, shoe shiners, errand boys, domestic helpers, street restaurant vendors, and car watchers and washers in the informal sector in cities. Some girls as young as age nine worked as domestic servants, often within their extended family networks.

Children continued to work under hazardous conditions on cocoa farms. A Tulane University survey published during the year found that 24.1 percent of children between the ages of 5 and 17 within the cocoa-growing regions had worked on a cocoa farm in the previous 12 months. The survey showed that a number of these children were involved in or exposed to hazardous conditions, including operating tools (93.9 percent) and carrying heavy loads (79.8 percent). Of the children working on cocoa farms, 50.6 percent reported that they had been injured while working in agriculture. A small percentage of the children working on cocoa farms had no family ties to the farmers; however, most worked on family farms or with their parents.

In July the government launched a new program addressing child labor in cocoa-growing areas. The program focuses on decreasing poverty and thereby decreasing child labor by ensuring that each village has a primary school, health clinic, and income-generating activities to supplement cocoa income. The program included sensitization of parents to the importance of children attending school. It also raised parents' awareness of the dangers associated with child labor and the need to end the involvement of children in dangerous chores. By year's end the government had begun implementing the program in 10 cocoa villages and selected 21 additional villages for participation in the program.

The MOL is responsible for enforcing child labor laws and made progress during the year to address the worst forms of child labor. While enforcement of child labor laws continued to be hindered by financial constraints and other factors, there were indications that government efforts, along with those of its international partners, had a positive effect towards decreasing the worst forms of child labor.

The MOL and the prime minister's Child Labor Task Force supported and collaborated with NGOs and international partners to combat the worst forms of child labor. The task force continued to implement a national action plan to combat child labor and trafficking. Nine government ministries were involved in the effort. The Ministry of Family and Social Affairs conducted awareness campaigns targeting children at risk and agricultural regions that employ child labor, working in coordination with several international NGOs.

During the year NGOs conducted ongoing campaigns to sensitize farm families about child labor based on the list developed by the government of prohibited worst forms of child labor. The association of domestic worker placement in the country worked to prevent the exploitation of children in domestic work. Other NGOs campaigned against child trafficking, child labor, and the sexual abuse of children.

e. Acceptable Conditions of Work.—Minimum wages varied according to occupation, with the lowest set at 36,607 CFA (\$73) per month for the industrial sector; this wage did not provide a decent standard of living for a worker and family. A slightly higher minimum wage rate applied for construction work. The government enforced the minimum wage rates only for salaried workers employed by the government or registered with the social security office.

Labor federations attempted to fight for just treatment under the law for workers when companies failed to meet minimum salary requirements or discriminated among classes of workers, such as local and foreign workers.

No government action was taken to rectify the large salary discrepancies between expatriate non-African employees and their African colleagues who were employed

by the same company. The standard legal workweek was 40 hours. The law requires overtime pay for additional hours and provides for at least one 24-hour rest period per week. The government did not enforce the law actively. The law does not prohibit compulsory overtime. The law provides for occupational safety and health standards in the formal sector; however, in the large informal sector of the economy, the government enforced occupational health and safety regulations erratically, if at all. Labor inspectors frequently accepted bribes. Workers in the formal sector have the right to remove themselves from dangerous work without jeopardy to continued employment by utilizing the MOL's inspection system to document dangerous working conditions. However, workers in both the formal and informal sectors could not absent themselves from such labor without risking the loss of their employment.

Several million foreign workers, mostly from neighboring countries, typically worked in the informal labor sector, where labor laws were not enforced. Neither foreign migrant workers nor citizen workers working in the informal labor sector were covered under current labor laws.

DJIBOUTI

Djibouti is a republic with a strong elected president and a weak legislature. It has an estimated population of 660,000. In February 2008 legislative elections, President Ismail Omar Guelleh's five-party coalition won all 65 national assembly seats. A three-party opposition coalition boycotted the race, which international observers from the African Union (AU) and the Arab League considered generally free and fair. Following a June 2008 border clash, Eritrean troops continued to occupy Djiboutian territory, despite condemnations by the United Nations, the Arab League, and the AU. Civilian authorities generally maintained effective control of the security forces.

The government's human rights record remained poor, although there were improvements in several areas, including prison conditions, reduced incidents of prolonged detention without charge, decreased perceptions of judicial corruption, and expanded services for women who were victims of violence. Serious problems included corruption; official impunity; arbitrary arrest and detention; prolonged pretrial detention; interference with privacy rights; restrictions on freedom of the press, assembly, and association; and restrictions on unions. Female genital mutilation (FGM) also remained a serious problem.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution and the law prohibit such practices; however, there continued to be occasional allegations that police and gendarmes beat detainees.

Prison and Detention Center Conditions.—Prison conditions remained difficult but continued to improve.

The Gabode Prison usually held an estimated 500 prisoners, including approximately two dozen female prisoners. There were normally fewer than half a dozen juvenile prisoners, although their numbers occasionally spiked dramatically after incidents of youth violence in Djibouti City. More than half of the prisoners generally were citizens.

Several prison nurses and a doctor who visited four times a week provided medical care, while prisoners with serious health problems were treated at the main Djibouti City public hospital. Seriously sick prisoners were held separately, and prisoners with communicable diseases were segregated from prisoners with other health problems. Adequate medication was provided. During the prisoner intake process, prison officials attempted to document serious health conditions, and prison medical staff regularly suggested that prisoners who appeared unwell receive testing for serious illnesses. Due to an acute lack of mental health resources, prisoners with serious mental illness did not receive adequate care.

In 2008 the new specialized prison guard force replaced the previous national police guards. Most applicants for the new guard force were required to have at least a high school degree and received some initial specialized training, although continuing training was inadequate. Under the administration of the new prison guard force, incidents of collaboration between guards and prisoners to subvert prison

rules reportedly declined significantly, and the prison atmosphere was noticeably calmer and more orderly.

Men and women were held separately. Juveniles were generally held separately from adult prisoners, and small children were allowed to stay with their mothers. Although prison officials attempted to hold convicted prisoners separately from those awaiting trial, space constraints in the filled-to-capacity prison often prevented full separation of the two groups.

The government granted prison access to the International Committee of the Red Cross (ICRC) for inspections, and prison visits occurred up to six times a year. The ICRC provided prisoners with soap, bleach, and cleaning powder monthly.

A small group of Eritrean prisoners of war captured during a June 2008 border skirmish with Eritrea received regular visits from ICRC staff.

At Nagad detention center, where authorities held foreigners prior to deportation, detainees had access to water, food, and medical treatment. Authorities deported most detainees within 24 hours of arrest.

Prison conditions continued to improve, especially with the complete transfer of prison security responsibilities to the new, dedicated prison guard force. At Gabode Prison, prisoners had adequate access to water for drinking and washing and to sanitary facilities. The prison kitchen remained adequate but rudimentary. Prisoners were provided with three meals a day, with meat served on alternate days. Prisoners' families were allowed to bring food to the prison.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, the government did not uniformly respect these prohibitions.

Role of the Police and Security Apparatus.—Security forces include the National Police under the Ministry of Interior, the army and National Gendarmerie under the Ministry of Defense, and an elite Republican Guard that protects the president. The National Police is responsible for internal security and border control. The National Gendarmerie is responsible for external security but also has some domestic responsibilities. A separate prison guard service is responsible for security at the national prison.

Police were generally effective; however, there were isolated reports of corruption, particularly in the lower ranks where wages were low. Official impunity was a problem. There was a Human Rights Office within the police, and human rights education was integrated into the police academy curriculum.

Arrest Procedures and Treatment While in Detention.—The law requires arrest warrants and stipulates that the government may not detain a person beyond 48 hours without an examining magistrate's formal charge; however, the law was not always enforced in practice, especially in rural areas. Detainees may be held another 48 hours with the prior approval of the public prosecutor. Detentions exceeding the allowed time limit reportedly became less common during the year, although no statistics were available. There remained a need for more training of the police to ensure uniform compliance with the law.

All persons, including those accused of political or national security offenses, must be tried within eight months of arraignment. The law also provides for bail and expeditious trial; however, police occasionally disregarded these rights. Detainees have the right to prompt access to an attorney of their choice; in criminal cases the state provides attorneys for detainees without legal representation. The law provides that detainees be promptly notified of the charges against them, although in practice there were occasional delays. Detainees generally were allowed access to family members and to legal counsel. Although judicial delays were becoming less severe, lengthy pretrial detentions due to inefficiency and staff shortages within the judicial system remained a problem. However, no statistics were available.

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary; however, in practice the judiciary was not always independent of the executive. Constitutional provisions for a fair trial were not universally respected. The judiciary was inefficient; however, there was a growing perception that corruption was less common. Although more training was still needed, magistrates were increasingly better educated. Women represented over half of magistrates, and there was a widespread public perception that female judges were less susceptible to corruption. In 2007 a government audit of the judiciary resulted in the dismissal of two magistrates for corruption.

The judiciary is based on the French Napoleonic Code and is composed of a lower court, an appeals court, and a supreme court. The Supreme Court may overrule lower court decisions. Magistrates are appointed for life terms. The Constitutional Council rules on the constitutionality of laws, including those related to the protection of human rights and civil liberties.

The legal system is based on legislation and executive decrees, French codified law adopted at independence, Islamic law (Shari'a), and nomadic traditions. Urban crime is dealt with in the regular courts in accordance with French-inspired law and judicial practice. Civil actions may be brought in regular or traditional courts. The family code governs the majority of cases pertaining to family and personal matters, including marriage, divorce, child custody, and inheritance. Issues that fall under the family code are brought to civil family court.

Trial Procedures.—Trials generally are public. The indigent have a right to legal counsel in criminal and civil matters, but in practice defendants sometimes did not have legal representation. The law states the accused is innocent until proven guilty. A presiding judge and two associate judges hear court cases. The judge receives assistance from three lay assessors who are not members of the bench but who are considered to possess sufficient legal knowledge to comprehend court proceedings. The government chose lay assessors from the public. Defendants have the right to be present, confront witnesses, have access to government-held evidence, and to appeal. Defendants can present witnesses and evidence on their own behalf.

Traditional law often applied in conflict resolution and victim compensation. For example, traditional law often stipulated that a price be paid to the victim's clan for crimes such as murder and rape.

In general the law provides for equal application to all citizens. In accordance with Shari'a, male children inherited larger percentages of estates than did female children.

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

Civil Judicial Procedures and Remedies.—A civil court deals with all matters related to the civil code. Citizens have access to the courts in cases of civil rights violations. There is arbitration of civil disputes if the parties agree. In rural areas traditional courts resolve many civil disputes. There is an administrative law chamber which mediates disputes between citizens and government authorities. Court decisions were not always enforced.

In case of human rights violations, citizens have the right to address correspondence to the National Human Rights Commission. On a variety of matters, citizens could also seek assistance from the Ombudsman's Office, which often helped resolve administrative disputes with other government branches.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and the law prohibit such actions; however, the government did not uniformly respect these prohibitions in practice. The law requires that authorities obtain a warrant before conducting searches on private property, but the government did not always respect the law in practice. According to government opponents, the government monitored their communications.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution and the law provide for freedom of speech and of the press; however, the government did not respect these rights in practice. While individuals often expressed themselves freely in society, opposition leaders continued to accuse the government of attempting to impede public criticism.

There were few media outlets, and due to media and slander laws, journalists practiced self-censorship. A 2007 law sets out the rights and obligations of journalists and protects the right to organize and strike. There were two local journalists' associations. The East African Journalists Association, a group dedicated to fostering press freedom, protecting journalists' safety, and promoting regional conflict resolution, had its headquarters in the country. In 2008 the association held a series of capacity building workshops for local journalists, focusing on organization and planning for journalists' associations.

The law prohibits dissemination of false information and regulates the publication of newspapers. The government owns the principal newspaper, *La Nation*, which is published four times a week. Each registered political party is permitted to publish a public journal or newspaper. Opposition political groups and civil society activists circulated newsletters and other materials critical of the government.

The 2007 ban on the opposition political party newsletter *Le Renouveau* remained in effect at year's end.

The government also owned the radio and television stations. The official media generally did not criticize government leaders or policy. Radio-Television Djibouti (RTD), the official government station, broadcast 24 hours a day in four languages on the radio. Foreign media also broadcast throughout the country, and cable news and other programming were available.

Internet Freedom.—There were few government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. However, the government reportedly continued to block the Web site of the Association for Respect of Human Rights in Djibouti (ARDHD), which was often critical of the government. The ARDHD claimed access to its Web site was blocked by the local Internet provider, although those with satellite connections were able to access the site.

According to International Telecommunication Union statistics for 2008, approximately 1.5 percent of the country's inhabitants used the Internet.

Academic Freedom and Cultural Events.—There were no government restrictions on academic freedom or cultural events, and teachers could speak and conduct research without restriction provided they did not violate sedition laws.

b. Freedom of Peaceful Assembly and Association.—*Freedom of Assembly.*—Although the constitution and the law provide for freedom of assembly, the government limited this right in practice. The Ministry of Interior requires permits for peaceful assembly. Prior to the February 2008 legislative elections, the government denied the three-party opposition coalition, which was boycotting the elections, permission to hold two protest meetings, citing a law that limits political party gatherings during campaign periods to those parties contesting the elections.

Police dispersed several unauthorized demonstrations during the year.

Freedom of Association.—The law provides for freedom of association provided that certain legal requirements are met; however, the government restricted this right in practice, particularly for labor unions.

c. Freedom of Religion.—The constitution, while declaring Islam to be the state religion, provides for freedom of religion, and the government generally respected this right in practice. The government did not punish those who ignored Islamic teachings or practiced other faiths. More than 99 percent of the population was Sunni Muslim.

There is no legal prohibition against proselytizing, and the government did not discourage it; however, cultural norms effectively discouraged public proselytizing by non-Muslims and conversion from Islam.

Societal Abuses and Discrimination.—There were occasional reports of societal discrimination based on religious affiliation, belief, or practice. Some representatives of Christian denominations noted occasional incidents of societal animosity towards non-Muslims.

There was no known Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution and the law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

Due to the continuing border dispute with Eritrea, certain areas in the north remained under military control.

The government generally cooperated with the Office of the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, asylum seekers, stateless persons, and other persons of concern.

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

Internally Displaced Persons (IDPs).—In June 2008 the ongoing border dispute with Eritrea intensified and reportedly resulted in the displacement of at least 207 families living in the north near the border. In July 2008 the ICRC provided humanitarian assistance to 140 displaced families.

Protection of Refugees.—The laws provide for the granting of asylum or refugee status in accordance with the 1951 Convention relating to the Status of Refugees, its 1967 Protocol, and the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. The government has established a system for providing protection to refugees under the National Eligibility Commission, first formed in 1978. In July 2008 the government reactivated the commission and began interviewing urban refugees who had been in the country for several years.

The government did not routinely grant refugee or asylum status, and the government did not accept refugees for resettlement during the year. In practice the government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race,

religion, nationality, membership in a particular social group, or political opinion. During the year the government also provided temporary protection to a limited number of individuals who may not qualify for refugee status under the 1951 Convention or the 1967 Protocol.

The government and UNHCR generally cooperated in providing assistance to refugees and asylum seekers. During the year the National Assistance Office for Refugees and Disaster Stricken People (ONARS) and UNHCR completed a census of refugees at Ali Addeh refugee camp and distributed identification cards to adult refugees. However, organizational difficulties and resource constraints prevented both entities from providing adequate service to refugees, including the prompt processing of refugee claims. While the government grants *prima facie* status to refugees from southern Somalia, all other nationalities, including Eritreans, must register with ONARS.

Refugees reported that although they could not obtain work permits, many, especially women, worked. Due to the lack of permits, however, they were unable to challenge poor working conditions or ensure fair payment for their labor. There were reports that refugees were subject to arbitrary arrest and detention. To address this problem, the government and the UNHCR held a workshop in October 2008 to educate 28 immigration and border control officers on refugee rights and the proper procedures for dealing with refugees. Refugees at the Ali Addeh camp had access to a local primary school but not to a secondary school.

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

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage. A multiparty system exists, and citizens are free to align themselves with the party of their choice.

Elections and Political Participation.—In February 2008 President Ismail Omar Guelleh's five-party coalition, the Union for a Presidential Majority (UMP), won all 65 seats in the winner-take-all national assembly contest. The UMP included former opposition parties and leaders. International observers from the AU and the Arab League considered the election generally free and fair.

A three-party opposition coalition, the Union for Democratic Alternance (UAD), boycotted the election after a list of demands regarding the electoral process was not met. In July 2008 the government banned the opposition political party Movement for Democratic Revival (MRD), a member of the UAD, alleging that one of its leaders had invited Eritrea to invade the country. The MRD filed an appeal to protest this decision, and the case was pending a hearing by the administrative law chamber at year's end.

Opposition political parties claimed that the government restricted and interfered with their operations. For example, on September 29, authorities arrested Union for Democracy and Justice opposition political party member Gouhad Hoch Hared and charged him with illegal distribution of a tract. The court sentenced him to two months in prison; he appealed the verdict and was released on November 11.

Local governments, elected in the country's first-ever regional elections in 2006, included both ruling coalition and independent officials. Following the official transfer of authority from the central government in 2008, the regional governments had greater responsibility for several services, including trash collection, management of markets, and issuance of civil documents such as birth certificates.

The 2008 legislative elections brought two more women into the National Assembly, raising the number of female parliamentarians in the 65-seat body to nine. There were two women in the 21-member cabinet, and the president of the Supreme Court, who by law acts in the president's stead in case of death or incapacitation, was a woman.

The legislature included members of all clans; membership was approximately 45 percent Issas, 40 percent Afars, and 15 percent representatives of smaller minority groups. Elected as a single list, the legislature's composition reflected the governing coalition's intent to ensure balance. The cabinet was similarly balanced; there were seven Afars, including the prime minister, the defense minister, and the foreign minister. However, some Afars continued to claim that they were not as well represented at lower levels. There were three representatives from Somali clans other than the Issa in the cabinet, and one of Yemeni origin.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, despite increased efforts, the government did not implement such laws effectively, and officials sometimes engaged in corrupt practices with impunity. According to the most

recent World Bank Worldwide Governance Indicators, government corruption was a serious problem.

The government continued to take steps to combat corruption. In 2007 two magistrates were dismissed for corruption following investigations by the government's accounting office. The presence of more female judges helped fuel a growing public perception that there was less corruption in the judiciary.

Privatization of port, airport, and customs operations continued to increase transparency and government revenues substantially in the most important sectors of the economy. The Chamber of Public Accounts and Fiscal Discipline (CAFD) and the State Inspectorate General (IG) were responsible for combating corruption and conducted public expenditure audits in an effort to promote transparency. During the year the IG completed an audit of ministries' inventories of government property, in collaboration with the Ministry of Finance's inspector general. The CAFD and IG are mandated to report regularly, although in practice these reports were not always timely. In September RTD began to broadcast anticorruption public service announcements developed with the IG. The public service announcements were aired twice a week in four languages.

Public officials were not subject to financial disclosure laws.

There were no laws providing for public access to government information, although legislative texts were publicly available through the online official journal, and citizens could address requests for information or mediation to the Ombudsman's Office.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A few domestic human rights groups generally operated without government restriction, conducting limited investigations and sometimes publishing findings on human rights cases. Government officials were occasionally responsive to their views. However, government officials regularly cooperated with local nongovernmental organizations (NGOs) offering training and education to citizens on human rights issues, especially women's rights.

On April 4, gendarmes arrested and detained Jean-Paul Abdi Noel, the leader of the local human rights group Djiboutian League for Human Rights, on charges of distributing materials which insulted judicial authority. Authorities released him on April 5 but ordered him to remain under judicial control. On June 7, a court ordered that the judicial control be lifted. Abdi Noel asked for his case to be dismissed and was awaiting a verdict on this motion at year's end.

In 2007 a court tried Abdi Noel for libel and fined and briefly imprisoned him. He appealed his sentence, and after several postponements in 2008 and 2009, at year's end he was awaiting a Supreme Court hearing scheduled for January 17, 2010.

The government routinely allowed visits from international NGOs, including those dealing with human rights issues, and regularly received visitors from UN bodies. In February officials from the Addis Ababa-based UN Human Rights East Africa Regional Office visited to participate in a UN-sponsored human rights seminar.

The ICRC maintained a small office staffed with locally hired personnel. ICRC regional representatives based in Nairobi visited the country monthly.

In April 2008 the government established a Human Rights Commission whose members included technical experts, representatives of civil society and labor, religious groups, the legal community, the Ombudsman's Office, and the National Assembly. The commission met regularly and occasionally commented on cases of concern. State-run media featured prominent coverage of the commission's activities throughout the year, including of an event centered on discussion of the commission's new three-year strategic plan to build capacity, and of a workshop on monitoring and investigating human rights abuses.

There was a government ombudsman who also served as a legislator in the parliament and whose specific responsibilities included mediation between the government and citizens.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law prohibit discrimination on the basis of language, race, or gender; however, government enforcement of such laws was ineffective. The government took steps during the year to increase protection of women, including ongoing campaigns against FGM, but societal discrimination against women and ethnic minorities persisted.

Women.—The law includes sentences of up to 20 years' imprisonment for rape. According to police statistics, 12 cases of rape were reported to the police in 2008, representing a drop from 23 cases in 2007. In addition, eight women reported rape in

2008 to a counseling center run by the Union of Djiboutian Women, under the patronage of the first lady. There is no law against spousal rape. Reliable statistics on the prevalence of rape were not available. Rape cases, which often were not reported to the police, were commonly settled informally between the families of the victim and the perpetrator.

Domestic violence against women existed but few cases were reported. The law prohibits "torture and barbaric acts" against a spouse. Violations are punishable by 20 years' imprisonment. Violence against women generally was addressed within the family or clan rather than in the courts. Police rarely intervened in domestic violence incidents, and the media reported only the most extreme cases, such as murder. The Union of Djiboutian Women's counseling center helped women with a variety of problems, including domestic violence. In 2008 the counseling center assisted 652 women, men, and children. A total of 38 percent of the 640 women assisted reported physical violence, and 13 percent psychological abuse. More than 50 percent sought assistance in obtaining alimony or child support payments.

Prostitution is illegal but it occurred. In 2008 police reported 201 cases of prostitution. Only 29 percent of these cases involved citizens; the remainder involved Somali or Ethiopian nationals. Refugees and girls from poor families were at greater risk of becoming street prostitutes.

The law does not prohibit sexual harassment, and it was a problem.

The government recognized the right of citizens to decide freely and responsibly the number, spacing, and timing of their children. Health clinics are permitted to operate freely in disseminating information on family planning under the guidance of the Ministry of Health. There are no restrictions on the right to access contraceptives; however, according to available data, the estimated contraceptive coverage rate was only 18 percent. The government provided childbirth services, and increasing numbers of women delivered babies in a hospital or health clinic. Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV/AIDS.

Women legally possess full civil rights; however, custom and traditional societal discrimination in education resulted in a secondary role for women in public life and fewer employment opportunities in the formal sector. Many women owned and ran small businesses, although mostly in the informal sector, where they did not receive the same benefits or access to credit available in the formal sector. The government promoted female leadership in the small business sector, including through expanded access to microcredit. The increased presence of women in the government, the legislature, and business had a positive effect. A 2008 presidential decree required women to be represented in at least 20 percent of all high-level public service positions, although there were no statistics available. The Family Code governs the majority of family and personal matters, but inequities existed. In accordance with Shari'a, male children inherited larger percentages of estates than did female offspring. Educated women increasingly turned to the regular courts to defend their interests.

Children.—Citizenship is derived from a child's parents. The government did not register all births immediately. There were difficulties in registering births of children in remote areas, although most births in Djibouti City were registered quickly, and the government continued to encourage immediate registration.

While the government continued to stress the importance of children's rights, some problems remained. The government continued to devote increased resources for education and health care, committing a quarter of its budget to education, particularly primary education, and over 15 percent to health care, including increased spending on rural health care, particularly for mothers and infants. It relied on a few charitable organizations to support children and encouraged others to join the effort.

Primary education was compulsory and available to all. However, enrollment rates, although increasing, were not universal. The government provided tuition-free public education, but extra expenses could be prohibitive for poor families. Although the educational system did not discriminate against girls, societal attitudes sometimes resulted in differences in the attendance and treatment of girls in school. The government worked with international donors to improve significantly girls' school attendance rates, and during the year more than 46 percent of children enrolled in school were girls. The government provided a satchel of essential school supplies to children in poor areas, and authorized a premium for teaching in rural areas. The government also continued to support parent-teacher associations throughout the country.

Child abuse existed but was not frequently reported or prosecuted.

FGM was widely performed on young girls. An estimated 93 percent of females in the country had undergone FGM, although some studies indicated that recent

NGO and government efforts to stop the practice had begun to reduce significantly the number of young girls subjected to FGM in Djibouti City.

During the year the government increased efforts to end FGM with continued high-profile publicity campaigns around the country, ongoing public support from the first lady and other well-known women, and outreach to Muslim religious leaders. The government-run press featured frequent and prominent coverage of events organized to educate the public on the negative consequences of FGM. These actions built on efforts begun in 2005, when the government ratified the Maputo Protocol outlawing FGM. The efforts of the Union of Djiboutian Women and other groups to educate women about the practice were having some effect in the capital, where reported rates of FGM among young women continued to decline. However, infibulation, the most extreme form of FGM, continued to be widely practiced, especially in rural areas. The law states that genital mutilation is punishable by five years' imprisonment and a fine of one million DF (\$5,650); however, the government had not convicted anyone under this statute. In July the government adopted an additional anti-FGM statute that provides for up to one year's imprisonment and a fine of up to 100,000 DF (\$565) for anyone convicted of failing to report a completed or planned FGM to the proper authorities. The new law also allows NGOs to file charges on behalf of FGM victims.

In an effort to reduce the demand for commercial sex acts, in April 2008 the government issued international arrest warrants for five French nationals based on allegations of child sexual abuse. Christian George, a French national rearrested in 2006 for child abuse after an attempt to flee the country, finished his sentence and was repatriated to France.

Child marriage occasionally occurred in rural areas; however, it was not considered a significant problem. In 2008 six women reported cases of forced marriage to the Union of Djiboutian Women's counseling center. The government worked with several NGOs to increase school enrollment for girls, in part to reduce the likelihood that parents would force young girls into marriage. The Ministry for the Promotion of Women, Family, Welfare, and Social Affairs also worked with women's groups throughout the country to protect the rights of girls, including the right to decide when and whom to marry.

Despite increased government efforts to keep at-risk children off the streets and warn businesses against permitting children to enter bars and clubs, there were credible reports of child prostitution on the streets and in brothels. Occasionally child prostitution occurred with the involvement of a third party, most frequently an older child or group of older children. Of 201 prostituted persons apprehended by the police in 2008, 51 were between the ages of 10 and 18.

There was no specific law prohibiting statutory rape, but age of majority was fixed by law at 18 for both men and women. The sale, manufacture, or distribution of all pornography, including child pornography, is covered under laws prohibiting attacks on "good morals," and violations are punishable with a year in prison and a fine of up to DF 200,000 (\$1,130).

Trafficking in Persons.—The law prohibits all forms of trafficking in persons, including internal and transnational trafficking, and provides penalties of up to 30 years' imprisonment for traffickers. The law prohibits discrimination among trafficking victims based on ethnicity, gender, or nationality.

Despite the prohibition, during the year there were credible reports of women and children, mostly Ethiopians and Somalis, and impoverished local girls trafficked for the purpose of prostitution or domestic servitude.

During the year the International Organization for Migration (IOM) established an office in Djibouti at the government's invitation. The government worked with the IOM on a publicity campaign to discourage irregular migration and to warn migrants of the risk of being trafficked. In 2008 the police arrested 148 persons for trafficking or smuggling, of whom 130 were convicted and sentenced to prison. Some smugglers were of Yemeni origin. The government offered limited services to smuggling and trafficking victims, including health care.

The State Department's annual Trafficking in Persons Report can be found at www.state.gov/tip.

Persons With Disabilities.—Persons with disabilities had access to education and public health facilities, and the labor code prohibits discrimination in employment against persons with disabilities. NGOs continued to organize seminars and other events that drew attention to the need for enhanced legal protections and better workplace conditions for persons with disabilities. There was societal discrimination against persons with disabilities. The government did not mandate accessibility to buildings or government services for persons with disabilities. No government agen-

cy was charged specifically with protecting the rights of such persons, although the Ministry of Justice was charged with general responsibilities for human rights.

National/Racial/Ethnic Minorities.—The governing coalition included all of the country's major clan and ethnic groups, with minority groups also represented in senior positions. Nonetheless, there continued to be discrimination on the basis of ethnicity in employment and job advancement. Somali Issas, the majority ethnic group, controlled the ruling party and dominated the civil service and security services. Discrimination based on ethnicity and clan affiliation declined, but affiliation remained a factor in business, government, and politics.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—There was no known societal violence or discrimination based on sexual orientation.

Other Societal Violence or Discrimination.—There was no known societal violence or discrimination against persons with HIV/AIDS.

Section 7. Worker Rights

a. The Right of Association.—The constitution and law provide for the right to form and join unions; however, the government restricted these rights in practice. Reliable statistics on the percentage of total workforce that belonged to a trade union were not available. The law confers upon the president broad powers to requisition public servants who are considered indispensable to the operation of essential public services. Under the labor code, a union must have the approval of the Ministries of Labor and Interior as well as the Labor Inspectorate and the public prosecutor. Some union leaders continued to allege that the government suppressed independent representative unions by tacitly discouraging labor meetings and accused the government of allowing what they called government-sponsored "shadow union" representatives to attend the 2009 International Labor Conference as the country's labor representatives. Some members of the Djiboutian Work Union (UDT) also accused the government of breaking up a union meeting on October 13 and of preventing the UDT from holding a planned union congress on October 14-15.

The law provides for the right to strike and requires representatives of employees who plan to strike to provide 15 days' advance notification to the Labor Inspectorate, which uses this time period to attempt to mediate an alternate resolution of the dispute. In practice unions occasionally disregarded this requirement for advance notification. Workers exercised the right to strike in practice, and the Labor Inspectorate recorded half a dozen strikes during the reporting period.

b. The Right to Organize and Bargain Collectively.—The labor code allows for collective bargaining and fixes the basic conditions for adherence to collective agreements. During the year government officials and labor union leaders reported that collective bargaining was underway, although progress in reaching agreements was slow. All parties agreed that workers needed better technical assistance, for example, and legal counseling to be able to negotiate effectively with employers. The National Council on Work, Employment, and Professional Training, established in 2008, was charged with examining all collective bargaining agreements and playing an advisory role in their negotiation and application. The council included representatives from labor, employers, and the government.

Relations between employers and workers were informal and paternalistic. Employers generally established wage rates based on Labor Ministry guidelines. In disputes over wages or health and safety problems, the Ministry of Labor encouraged direct resolution by labor representatives chosen by the government and employers. Workers or employers could request formal administrative hearings before the Labor Inspectorate. However, in practice the inspectorate did not have sufficient resources to conduct regular preventive inspections or to follow up on the enforcement of previous cases.

The law prohibits antiunion discrimination and requires employers found guilty of discrimination to reinstate workers fired for union activities; however, the government neither enforced nor complied with the law.

The 2004 Djibouti Free Zone code establishes more flexible hiring regulations for workers in the Duty Free Zone, an export processing area. However, on other work issues, the national labor code applies to Duty Free Zone workers.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, a small number of women and children transiting the country from Somalia or Ethiopia, and impoverished local girls fell victim to domestic servitude or commercial sexual exploitation after reaching Djibouti City or the Ethiopia-Djibouti trucking corridor (see section 6).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits all labor by children under the age of 16, but the government did not always

enforce this prohibition effectively, and child labor existed. Children were involved in the sale of the mild narcotic khat, legal under local law, and engaged in prostitution. Family-owned businesses such as restaurants and small shops employed children at all hours. Children were involved in a range of activities such as shining shoes, washing and guarding cars, selling items, working as domestic servants, working in agriculture and with livestock, and other activities in the informal sector.

The Ministry of Labor is responsible for monitoring work places and preventing child labor, but a shortage of labor inspectors and a lack of other resources such as vehicles reduced the likelihood that reports of child labor would be investigated, and no inspections were conducted during the year. There was no program undertaken by the government to enforce the work of inspectors.

e. Acceptable Conditions of Work.—Only a small minority of the population was employed formally and earned a wage salary. The 2006 labor code canceled minimum wage rates for occupational categories and provides that wages be set after common agreement between employers and employees. The former national minimum wage did not provide a decent standard of living for a worker and family, and it was unlikely that such common agreements would provide a decent standard of living.

By law the workweek is 48 hours, normally spread over six days. This limit applies to workers regardless of gender or nationality. The law mandates a weekly rest period of 24 consecutive hours and the provision of overtime pay, and limits compulsory overtime to a maximum of five hours per week.

The Ministry of Labor is responsible for enforcing occupational health and safety standards, wages, and work hours. Because enforcement was ineffective, workers sometimes faced hazardous working conditions. Workers rarely protested due to fear that others willing to accept the risks would replace them. There were no laws or regulations permitting workers to refuse to carry out dangerous work assignments without jeopardizing their continued employment. Although more flexible hiring regulations applied in the Free Zone, other labor code provisions applied to all workers, including foreign workers and workers in the Free Zone.

EQUATORIAL GUINEA

Equatorial Guinea, with an estimated population of approximately one million, is nominally a multiparty constitutional republic. All branches of government were dominated by President Teodoro Obiang Nguema Mbasogo, who has ruled since seizing power in a military coup in 1979, along with his clan from the majority Fang ethnic group and his political party the Democratic Party of Equatorial Guinea (PDGE). On November 29, President Obiang was reelected with 95.37 percent of votes cast. The lopsided results and weak independent monitoring of the electoral process raised suspicions of systematic vote fraud. Foreign diplomatic observers noted numerous irregularities and the presence of military personnel at all voting stations. While civilian authorities generally maintained effective control of security forces, there were instances in which elements of the security forces acted independently.

The following human rights problems were reported: limited ability of citizens to change their government; unlawful killings by security forces; torture of detainees and prisoners by security forces; life-threatening conditions in prisons and detention facilities; official impunity; arbitrary arrest, detention, and incommunicado detention; harassment and deportation of foreign residents with limited due process; judicial corruption and lack of due process; restrictions on the right to privacy; restrictions on freedoms of speech, press, assembly, association, and movement; government corruption; violence and discrimination against women; suspected trafficking in persons; discrimination against ethnic minorities; and restrictions on labor rights.

Following a February 17 armed attack on the presidential palace, which was later blamed on a Nigerian rebel group, the government rounded up, arbitrarily arrested without warrant, and held without charge numerous persons, one of whom died from beatings during interrogation and two of whom were tortured.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of government agents committing politically motivated killings; however, security forces committed arbitrary or unlawful killings during the year.

On February 17, eight Nigerian fishermen were detained for questioning regarding an armed assault on the Presidential Palace in Malabo the same day. Security officials also detained Afiong Etim, the wife of one of the fisherman, who subsequently died from beatings administered during interrogation. The eight fishermen were being held in Black Beach Prison awaiting trial at year's end. Two of 10 Equatoguineans also arrested in connection with the attack were being held in Black Beach Prison awaiting trial at year's end; the other eight were out on bail.

On September 15, four off-duty police officers beat to death Akeem Jimoh, a Nigerian legal resident, who reportedly refused to pay a bribe. Jimoh, who was on his way home from work, was stopped by three policemen who requested his identification papers. Jimoh telephoned a friend to bring the papers and subsequently presented them to the police, who became verbally abusive and demanded a bribe of 50,000 CFA francs (\$115). After the friend's departure, Jimoh's body was found near the center of Malabo with a severe contusion to the head. Government officials claimed no witnesses had come forward to substantiate the beating but admitted the officers had attempted to extort money from a legal resident. The four officers, who claimed Jimoh was found unconscious at another location after running from police, were suspended from service and awaiting the results of an investigation at year's end.

There were no further developments in the following 2008 security force killings: the January police killing of an alleged illegal immigrant; the March death in detention of Ncogo Mbomio, a member of a banned political party, whose death Amnesty International (AI) claimed was a result of torture; the May police killing of a Malian citizen; and the December killing of a Cameroonian fisherman.

No further information was available on the 2007 torture death of Salvador Ndong Nguema, a member of the opposition Convergence for Social Democracy (CPDS) party; the two security force members detained in connection with the killing were released and reassigned.

Disappearance.—There were no reports of politically motivated disappearances during the year.

Former army colonel Cipriano Nguema Mba, who was abducted from Cameroon in October 2008 and secretly transported to Black Beach Prison in Malabo, remained in prison at year's end (see section 1.e.).

Florencio Ela Bibang, Antimo Edu Nchama, and Felipe Esono Ntutumu, all of whom were kidnapped in 2005 from foreign countries where they had refugee status, were confirmed by government sources as being held at Black Beach Prison at year's end (see section 1.e.).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, security officials abused and tortured persons during the year. AI reported on May 28 that "suspected criminals continued to be tortured or otherwise ill treated with impunity in police stations." In September 2008 a government official told a foreign diplomat that despite efforts by a government human rights center to monitor detention facilities, beatings in jails across the country were a common occurrence due to a lack of training and political will to address the problem.

Following his November 2008 mission to the country to assess the use of torture in the penal system, UN Special Rapporteur on Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment Manfred Nowak said police employed the "systematic use of torture" on detainees, including political prisoners and suspects of common crimes. Nowak, who observed a fully equipped torture room in the basement of the Bata Central Police Station, documented police abuse, corroborated by a medical expert, including beatings to the soles of the feet and buttocks with batons, solid rubberized cables, and wooden bars; electric shocks with starter cables attached to different parts of the body with alligator clips; and various forms of suspension with hands and feet tied together for prolonged periods while security officials beat victims as they swung back and forth.

Nowak underlined the inhuman treatment of political prisoners in Black Beach Prison, where he stated they had been held in solitary confinement for up to four years without being allowed the one hour of exercise per day required by international minimum standards. Political prisoners generally were held in leg irons for almost the entire duration of their imprisonment. The UN mission led by Nowak also found immigrants ran an increased risk of physical abuse in police cells.

Following a February armed attack on the presidential palace, the government rounded up, arbitrarily arrested without warrant, and held without charge 10 Popular Union (UP) members, at least two of whom were tortured. Eight were later released, but two remained in Black Beach Prison awaiting trial at year's end.

Foreigners, primarily illegal immigrants from other African countries, were harassed, intimidated, and arbitrarily arrested and detained (see section 1.d.). Foreign diplomats, primarily those from African countries, also complained police harassed, abused, and assaulted them and their family members, even after victims displayed their diplomatic documents. In one case a foreign diplomat reported when he came to the aid of his wife, who was being arrested by police, he was beaten with the butt of a rifle. The government had not responded to formal protests against such incidents filed by foreign diplomats by year's end.

No action was taken during the year against officials at the Malabo Central Police Station who in 2008 reportedly beat at least two former members of the banned opposition Progress Party of Equatorial Guinea (PPGE) to force confessions.

According to government officials and a private foreign firm working closely with the military on training programs, during the year a military court convicted at least one member of the security forces in connection with the torture of Jaime Ndong Edu, a CPDS member, by deputy police commissioner Donato Abogo Menden in 2007.

During the year the 12 police officers suspended as a result of their role in assaulting and looting Cameroonian immigrants following a 2007 bank robbery in Bata were dismissed. In 2007 security forces and citizens assaulted and looted the possessions of up to 8,000 Cameroonian immigrants, hundreds of whom sought refuge in the Cameroonian Embassy in Malabo and the consulate in Bata. The Cameroonian Government was forced to airlift several of their nationals out of the country. The government had not responded to requests for financial compensation filed by Cameroonian nationals impacted by the looting by year's end.

Prison and Detention Center Conditions.—Prisons did not meet international standards, although there were some improvements during the year. Following his November 2008 mission to the country to assess the use of torture in the penal system, UN Special Rapporteur Manfred Nowak noted the use of prolonged solitary confinement, insufficient food, and poor sanitary conditions.

With the exception of the newly renovated jails in Bata and Malabo, conditions in police station jails and other detention centers were harsh and sometimes life threatening. Holding cells were overcrowded and dirty, and detainees very rarely had access to medical care, exercise, or mattresses. Diseases, including malaria and HIV/AIDS, were serious problems. Food was usually provided by detainees' families or fellow detainees, and access to potable water was severely restricted. Most detainees had no access to toilets and resorted to plastic bottles or plastic bags instead.

Detained illegal immigrants pending deportation were held in police cells without food or water for lengthy periods since most had no relatives nearby. In February 2008 the UN Working Group on Arbitrary Detention, which visited the country in 2007, expressed concern over the lengthy arbitrary detentions of illegal immigrants and recommended the government make significant efforts to ensure foreigners received access to consular officials and establish reasonable periods of maximum detention; however, foreign embassies reported conditions for illegal detainees remained the same during the year.

Unlike in the previous year, female prisoners were generally separated from male prisoners, and juveniles were generally separated from adults; however, there were exceptions. For example, in April a foreign woman detained in the Bata jail claimed she was held with male, female, and juvenile inmates. Pretrial detainees were held together with convicted prisoners.

Neither the judicial system nor the police had an adequate, effective system to register cases or track prisoners.

The government sometimes permitted independent monitoring of conditions in the country's three prisons, 12 jails, and numerous holding cells in smaller localities. According to government officials, meetings were held during the year with representatives of the International Committee of the Red Cross (ICRC) to discuss reopening an ICRC office in the country. However, authorities regularly prevented monitoring of certain parts of prisons and other detention facilities, particularly military detention facilities.

Government officials confirmed two ICRC officials were allowed to visit Malabo's Black Beach Prison on June 18 and 19; the ICRC closed its Bata office and suspended such visits in March 2008 after the government refused to grant access to some prisoners.

In November 2008 government authorities denied the team of the UN Special Rapporteur on Torture access to military detention facilities at the Cogo and Ela military camps, effectively preventing investigation into allegations of torture and secret detentions; follow-up access to the central police stations in Malabo and Bata was also denied. According to Nowak, during the UN monitoring mission, security

force members threatened and intimidated UN monitoring officials, pointing guns at them as they tried to gain access to detention facilities. In a January 22 letter in response to the Nowak accusations, the government said it regretted the lack of cooperation it had shown to Nowak during his visit.

During the year the government made efforts to improve prison conditions. As a result of renovations completed in July, prisoner cells and the exercise yard at the Malabo city jail—which was singled out for criticism by Nowak—were larger and better ventilated. The government also hung antitorture posters at airports and border crossings. Minister of National Security Obama Schama also met with all police commissioners to underscore the illegality of mistreating prisoners.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, security forces frequently arrested or detained persons arbitrarily and without due legal process. A February 2008 report by the UN Working Group on Arbitrary Detention expressed concern both police and gendarmes frequently ordered arrests and detentions without legal authorization. Secret detentions reportedly occurred.

Role of the Police and Security Apparatus.—The police are generally responsible for security in the cities, while gendarmes are responsible for security outside the cities and for special events; both report to the minister of national security. Military personnel, who report to the minister of defense, also fulfilled police functions in border areas, sensitive sites, and high-traffic areas. In addition there were police elements within the ministries of Interior (border and traffic police), Finance (customs police), and Justice (investigative/prosecuting police). Presidential security officials also exercised police functions in the vicinity of the president and presidential facilities. Foreign contractors continued to work with the government to consolidate and organize security structures within the country.

Police remained under funded and poorly trained, and corruption and impunity were problems, although less so than in previous years. Security forces continued to extort money from citizens and immigrants, although the number of such incidents significantly decreased during the year. There was no internal investigation unit within the police, and mechanisms to investigate allegations of abuse were poorly developed.

The government recognized the need for professional improvement of the police and continued to support a broad training program. A foreign contractor continued to train police officers and their leaders on human rights, prevention of trafficking in persons, rule of law, appropriate use of force, and a code of ethics. Evidence and feedback from expatriates, citizens, and community leaders indicated improvement in performance in human rights and professional conduct, particularly among younger officers who received training.

Arrest Procedures and Treatment While in Detention.—The constitution requires arrest warrants, except in cases in which a suspect is caught committing a crime. Unlike in previous years, there were no reports some persons were taken into custody on the verbal orders of officials. A detainee has the right to a judicial determination of the legality of the detention within 72 hours of arrest, excluding weekends and holidays; however, such detentions were often longer, occasionally several months. The law provides for detainees to be promptly informed of the charges against them; however, authorities did not respect this right in practice. Some foreign detainees complained they were detained and subsequently deported without knowledge of the charges against them. Although a bail system and public defenders—supplied by the bar association, which receives funding from the government—were available upon request, the public was largely unaware of either, and neither system operated effectively.

The law provides for family visits and prohibits incommunicado detention; however, use of incommunicado detention and denial of family visits were serious problems (see section 1.c.). According to the February 2008 report by the UN Working Group on Arbitrary Detention, lawyers did not have access to police stations and could not contact detainees while they were held there; police superintendents interviewed by the working group stated they did not see the need for or advisability of such access.

Police periodically raided immigrant ghettos, local stores, and restaurants to apprehend illegal immigrants; however, reliable sources reported that many legal, as well as illegal, immigrants were abused, extorted, or detained during such raids. Police often used excessive force to detain and deport detainees, and almost all foreign embassies in the country criticized the government during the year for its harassment, abuse, extortion, and detention without representation of foreign nationals. Many detainees complained about the bribes required for release from detention.

The government arbitrarily arrested a journalist during the year (see section 2.a.).

Lengthy pretrial detention remained a problem, and a significant number of those incarcerated were pretrial detainees; however, the number of pretrial detainees was unavailable due to poor record keeping. Inefficient judicial procedures, corruption, lack of monitoring, and inadequate staffing contributed to the problem.

On November 3, the president pardoned Simon Mann (see section 1.e.).

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary; however, the government did not respect this provision in practice, and the judiciary was not independent, according to UN officials and local and international human rights advocates. Judges serve at the pleasure of the president and were appointed, transferred, and dismissed for political as well as competency reasons. Judicial corruption was widely reported, and cases were sometimes decided on political grounds.

The court system is composed of lower provincial courts, two appeals courts, a military tribunal, and the Supreme Court. The president appoints the members of the Supreme Court, who reportedly took instructions from him. The Supreme Council of the Judicial Power appoints and controls judges. President Obiang is president of the Supreme Council, and the president of the Supreme Court is the vice president of the Supreme Council.

The military justice system did not provide defendants with the same rights as the civil criminal court system. The code of military justice states persons who disobey a military authority, or are alleged to have committed an offense considered to be a “crime against the state,” should be judged by a military tribunal, with limited due process and procedural safeguards, regardless of whether the defendant is civilian or military. A defendant may be tried without being present, and the defense does not have a guaranteed right to cross-examine an accuser. Such proceedings are not public, and the defendants do not have a right of appeal to a higher court. According to the UN Working Group on Arbitrary Detention, “judges and defenders in military courts were not lawyers or jurists, but military officials with no legal training.”

Tribal elders adjudicated civil claims and minor criminal matters in traditional courts in the countryside. These adjudications were conducted according to tradition and did not afford the same rights and privileges as the formal system. Those dissatisfied with traditional judgments could appeal to the civil court system.

Trial Procedures.—By law a defendant enjoys the presumption of innocence until proven guilty. Many trials for ordinary crimes are public, but juries were seldom used. Defendants have the right to be present at their trials but rarely were able to consult promptly with attorneys, unless they could afford private counsel. An accused person who cannot afford a lawyer is entitled to ask the government to provide one, but only if the accused is summoned to appear in court, and defendants were not routinely advised of this right. The country’s bar association was available to defend indigent defendants; however, there remained a serious shortage of lawyers, and there continued to be no effective system of court-appointed representation. The law provides for defendants to confront and question witnesses and present their own witnesses and evidence; however, this right was seldom enforced in practice. By law the accused has the right to appeal; however, legal appeals were not common due to lack of adequate legal representation and ignorance of constitutional rights.

Political Prisoners and Detainees.—It was difficult to estimate the number of persons detained or imprisoned for exercising their political rights, in part because authorities did not maintain reliable prisoner lists or allow comprehensive independent monitoring of detention facilities.

At the end of 2008, 39 persons were incarcerated for offenses relating to the exercise of political rights; all were members of opposition parties, mainly banned parties, or persons the government accused of involvement in alleged coup attempts. Of those convicted, most were charged with “crimes against the state.” Some were convicted by military courts without respect for due process, and some were tried summarily without the right to appeal their sentences, according to the UN Working Group on Arbitrary Detention.

Following the February 17 attack on the Presidential Palace in Malabo, 10 members of the UP party were arrested and detained. Eight of the 10 were released on bail, but UP members Marcelino Nguema and Santiago Asumu remained in Black Beach Prison awaiting trial at year’s end.

Former army colonel Cipriano Nguema Mba, who in October 2008 was abducted from Cameroon where he was recognized as a refugee and secretly transported to Black Beach Prison in Malabo, remained in prison at year’s end. In a 2004 military trial, Nguema was convicted of treason in absentia and sentenced to 30 years’ imprisonment for allegedly plotting a coup and leaving the country with government

funds. In addition the government continued to detain other political prisoners whom government agents had kidnapped from neighboring countries in recent years, according to the UN Working Group on Arbitrary Detention.

The UN Working Group on Arbitrary Detention recommended in February 2008 the adoption by the government of necessary measures to put an immediate end to secret detentions. In addition to Juan Ondo Abaga, who was released from Black Beach Prison in June 2008, the group cited the continuing secret detentions of Florencio Ela Bibang, Felipe Esono Ntumu, and Antimo Edu Nchama, all of whom were kidnapped in foreign countries where they had refugee status, tortured, and convicted of treason in a military tribunal. Bibang, Ntumu, and Nchama were believed to remain in Black Beach Prison, where they were denied access to lawyers or their families.

In July 2008 a court convicted and sentenced to six years' imprisonment five former members of the banned PPGE political party—Cruz Obiang Ebele, Emiliano Esono Micha, Gerardo Angue Mangué, Gumersindo Ramirez Faustino, and Juan Ecomo Ndong—on charges of belonging to a banned party, holding illegal meetings, attempting to overthrow the government, and arms smuggling. Police arbitrarily arrested the five individuals in March 2008, along with another former PPGE member, Bonifacio Nguema Ndong, who the court absolved after the discovery of weapons in the trunk of a car being imported to the country from Spain. According to AI, authorities arrested the five without warrant, forced them to sign statements they had not made, beat at least two of the men, held them incommunicado without access to a lawyer until five days before the trial, and failed to produce evidence they had been in possession of the weapons.

The five men were found guilty in the same trial as Simon Mann, although the charges against them were unrelated to the events for which Mann was tried. Mann, a British citizen who pled guilty to plotting a coup in 2004, was pardoned by the president on November 2 and released.

In February 2008 the UN Working Group on Arbitrary Detention recommended the government draft a new criminal code; establish an independent judiciary; prompt judges and law officers to make periodic visits to prisons and police detention centers; limit the jurisdiction of military courts to military offenses committed by armed forces personnel; extend human rights training to judges, law officers of all grades, security force members, and the Office of the Attorney General; guarantee lawyers free access to police stations and prisons; and guarantee the resources for the effective functioning of the judiciary, prison, and police detention system. The government stated it lacked the internal capacity to institute such changes.

Civil Judicial Procedures and Remedies.—Civil matters can be settled out of court, and in some cases tribal elders adjudicated local disputes. Courts were increasingly engaged in ruling on civil cases brought before them, some of which involved human rights complaints. Many international companies doing business in the country operated with mediation clauses, which were occasionally activated. Resulting resolutions were generally respected.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and law prohibit such actions, but the government often did not respect these prohibitions in practice. Security forces violated homes and arrested suspected dissidents, criminals, foreign nationals, and others—often without judicial orders, which are not required for certain officials to enter and search homes—and confiscated their property with impunity.

Government informers reportedly monitored opposition members, nongovernmental organizations (NGOs), and journalists. Most residents and journalists believed the government monitored telephone calls.

The law provides for restitution or compensation for the taking of private property; however, the government seldom provided equitable compensation or alternate housing when it forced persons from their homes or land. Individuals may hold property title to pieces of land, but the state has full power of eminent domain, which it often exercised in the interests of development. During the year regeneration of the main cities continued to result in forced evictions. Scores of families were forcibly evicted from their homes to make room for roads and luxury housing developments, especially in Malabo and Bata. The local Red Cross, Catholic Church, human rights lawyers, and opposition members expressed concerns about the displacement of poor communities.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution and law provide for freedom of speech and press; however, the Law on the Press, Publishing, and Audiovisual Media grants extensive powers to authorities to restrict the activities of the media, and the government continued to limit these rights in practice.

While criticism of government policies was allowed, individuals could not criticize the president, his family, other high-ranking officials, or the security forces without fear of reprisal, and the government reportedly attempted to impede criticism by continuing to monitor the activities of the political opposition, journalists, and others. Since 2007 some journalists have covered topics previously considered to be off limits, including mild criticism of institutions for lack of progress on economic development issues and government inefficiency, but the country's media remained weak and under government influence or control, and journalists practiced self-censorship.

Government publications included *Ebano*, a biweekly newspaper published by the Ministry of Information, Tourism and Culture, and the monthly *La Gaceta de Guinea Ecuatorial* newspaper. Independent publications included the bimonthly newspaper *El Correo*, opposition newspapers *La Opinion* and *El Tiempo*, and privately owned publications *El Sol*, *La Nacion*, *Hola*, *Ceiba*, *El Ape*, *La Verdad*, and *La Voz Del Pueblo*.

Starting a new periodical requires a complicated process governed by an ambiguous law and was often inhibited by government bureaucracy. In addition accreditation is cumbersome for both local and foreign journalists, who must register with the Ministry of Information.

Only one international news agency had a regular stringer present in the country, and government agents reportedly followed and surveilled stringers for foreign media. Some international media were not able to operate freely in the country during the year, and the government refused to issue visas to Spanish journalists from major media organizations prior to the November 29 presidential election (see section 3). International newspapers or news magazines were generally not available in rural markets due, at least in part, to their high price and the low rate of literacy in rural areas; however, international magazines and newspapers were increasingly being sold in a number of grocery stores in Malabo and Bata.

On July 17, police arrested Rodrigo Angue Nguema, the Malabo correspondent of *Agence France-Presse* and *Radio France Internationale*, for defamation and reporting false information. Nguema had written an article accusing Mamadou Jaye, the executive head of the national airline *Ceiba*, of embezzling 3.5 billion CFA francs (\$7.64 million) and fleeing the country, a story he subsequently retracted after learning that his source had provided false information. Despite publishing a retraction, Nguema was tried on September 1 for defamation; on October 15, he was released after serving nearly four months in prison. Jaye, the airline executive who brought the case, sued Nguema for 5 million euros (\$7.06 million), the amount he was alleged to have embezzled in Nguema's retracted report. Reporters without Borders (RSF) called the detention "disproportionate punishment" for defamation and called for authorities to amend legislation to prevent sentences of such severity.

The law allows the government considerable authority to restrict press activities through official prepublication censorship. The law also establishes criminal, civil, and administrative penalties for violation of its provisions, in particular when it comes to violations of the 19 "publishing principles" in Article 2 of the Law on the Press, Publishing, and Audiovisual Media.

Many of the legal and administrative obstacles criticized by international press freedom advocacy groups continued to pose significant problems for the country's media. For example there continued to be a lack of adequate government investment in infrastructure necessary for the development of strong independent media, including printing presses and newspaper retailers, and there was little evidence the government encouraged—on a nondiscriminatory basis—public advertising in locally printed media. During 2008 one journalist, a member of the National Press Association, equated this lack of investment by the government to "economic censorship" and expressed deep concern over the lack of training opportunities for local journalists, despite the country's recent exceptional economic growth.

The government owned a national radio and television broadcast system, RTVGE. The president's eldest son owned the only private broadcast media. Satellite broadcasts increasingly were available.

In the absence of any independent radio or television, coverage of the presidential campaign for the November 29 election was largely one-sided. Noting the low level of attention state media paid to opposition activities, RSF said the president was "expected to get close to 100 percent of the vote, which is about the same as the share of media coverage he received." The state radio and TV broadcaster RTVGE organized no debate and covered only a few opposition activities or meetings.

On January 12, Deputy Information Minister Purita Opo Berila announced the dismissal of journalists David Ndong, Miguel Eson Ona, Cirilo Nsue, and Casiano Ndong, who were employed by RTVGE, for "insubordination" and "lack of enthusiasm." Citing local sources, RSF claimed the dismissals were due to the four journalists failing to praise the government's "merits." The organization noted state

media employees were expected to relay government propaganda, were regarded as state employees, and had no legal protection or union representation to defend their actions or represent them in a disagreement with the government.

The Catholic Church applied to establish a radio station in 2007, but the government had not granted authorization by year's end.

Foreign channels were not censored, were broadcast throughout the country, and included Radio France International, BBC, and Radio Exterior, the international short-wave service from Spain.

Internet Freedom.—There were no government restrictions on access to the Internet or reports the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Most overt criticism of the government came from the country's community in exile, and the Internet had replaced broadcast media as the primary way opposition views were expressed and disseminated. Exiled citizens' sites were not blocked. According to International Telecommunication Union statistics for 2008, approximately 1.8 percent of the country's inhabitants used the Internet.

Academic Freedom and Cultural Events.—There were no official restrictions on academic freedom or cultural events; however, in past years some qualified professionals lost their teaching positions because of their political affiliation or critical statements reported to government officials by students in their classes. Most professors reportedly practiced self-censorship to avoid problems. Cultural events required coordination with the Ministry of Information, Culture, and Tourism.

Members of opposition political parties and faculty members complained of government interference in the hiring of teachers, continued employment of unqualified teachers, and pressure to give passing grades to failing students with connections. Teachers with political connections but no experience or accreditation were hired, even though they seldom appeared at the classes they purportedly taught. No teacher's union existed to defend the rights of teachers, and teaching positions were available only to PDGE members.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The constitution and law provide for the right of assembly; however, the government restricted this right, largely through limits on freedom of association, which made it difficult for organizations that had not gained legal authorization to operate and hold meetings legally. Although the government formally abolished permit requirements for political party meetings within party buildings, opposition parties were expected to inform authorities if they wished to hold gatherings outside of their headquarters. The government required notification for public events such as meetings or marches. According to foreign donors and members of local civil society groups, in light of coup attempts in recent years, the government continued to view some informal meetings by associations as security threats.

Local officials impeded opposition attempts to campaign in regions loyal to the president (see section 3).

Freedom of Association.—The constitution and law provide for freedom of association, but the government significantly restricted this right in practice. All political parties, labor unions, and other associations must register with the government. To date only one labor organization had been registered. The law prohibits the formation of political parties along ethnic lines, and several political parties remained banned (see section 3). The registration process for NGOs was costly, burdensome, opaque, and sometimes took years to complete (see section 4). During the year foreign donors continued to urge the government to review and reform the legal regime governing the establishment of NGOs. Many associations, including several women's groups focused on economic development, were unable to gain authorization or registered status from the government.

c. Freedom of Religion.—The constitution and law provide for freedom of religion, and the government generally respected this right. There were no reports government officials monitored religious services.

The law gives official preference to the Catholic Church and the Reform Church of Equatorial Guinea because of their traditional roots and historical influence in social and cultural life. A Roman Catholic Mass was normally part of any major ceremonial function or holiday. Long-established Catholic schools received the same benefits from the state as public schools.

A religious organization must be formally registered with the Ministry of Justice, Religion, and Penal Institutions to operate. Approval could take several years, due primarily to bureaucratic slowness rather than policy; however, the lack of clearly defined registration procedures remained an issue.

Religious study was optional in public schools but required in parochial schools and was usually, but not exclusively, Catholic.

Societal Abuses and Discrimination.—The Jewish community was extremely small; there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation. However, the government restricted these rights in practice.

During the year there were no cases in which the government cooperated with the UN High Commissioner for Refugees, which had no local office, or other humanitarian organizations in assisting refugees and asylum seekers.

Police at roadblocks routinely checked passing travelers and occasionally engaged in petty extortion, although reports of such practices declined during the year. Observers attributed the decline to increased training and to the hiring of younger, better educated officers. Frequent roundups of illegal immigrants also occurred at roadblocks. The government claimed roadblocks impeded illegal immigration, mercenary activities, and attempted coups; however, roadblocks also restricted travel.

The law prohibits forced internal or external exile; however, the government did not respect this in practice. Following the granting of pardons to political prisoners in June 2008, the government required several of them to return to and remain in their villages of origin. Several members of banned political parties remained in self-imposed exile.

Protection of Refugees.—The country is a party to the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, as well as to the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa; however, the government has not established a system for providing protection to refugees.

In practice the government provided some protection against the expulsion or return of persons to countries where their lives or freedom would be threatened. However, in October 2008 Cameroonian police officers reportedly illegally arrested former Equatoguinean army colonel Cipriano Nguema Mba in Cameroon, where he was recognized as a refugee, and handed him over to the country's embassy in Cameroon, from where he was secretly transported to Black Beach Prison (see section 1.e.).

The government provided temporary humanitarian protection to individuals who may not qualify as refugees under the 1951 convention and its 1967 protocol.

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

The constitution and law provide citizens the right to change their government peacefully; however, despite continued improvements in the electoral process during the year, this right continued to be extremely limited, partly as a result of the dominance of the ruling PDGE party.

Elections and Political Participation.—On November 29, President Obiang was reelected, winning 95.37 percent of votes cast; opposition candidate Placido Mico of the CPDS won 3.55 percent of the vote. The lopsided results and weak independent monitoring of the electoral process raised the suspicion of systematic voting fraud. Few international election observers monitored the country's 1,289 polling stations as a result of the government's insistence on coordinating their movement, prohibition on criticism, and control of media access. Procedural irregularities at some polling stations included multiple voting, failure to respect secrecy of the vote, and the absence of a posted list of registered candidates. At some stations voters were allowed to vote for family members, unregistered voters were allowed to vote, and ballot boxes were unsealed. Soldiers were deployed to all polling stations.

On October 16, President Obiang announced the election would be on November 29, with campaigning to begin officially on November 5; according to the constitution, a presidential election should be called at least 45 days before the end of the president's term of 30 days thereafter. According to Human Rights Watch, the tight election timetable and the government's refusal to make the voter rolls public severely limited the opposition's ability to campaign and win support. The voter registration process, an important part of the preparations for elections in the country, was seriously flawed. The registration committee was composed primarily of PDGE members and routinely decided issues in favor of the PDGE. When registering a PDGE member, the committee registered all members of the family as PDGE voters, including children. Persons who were dead, underage, or living abroad were included as PDGE registrants.

No independent and impartial body existed to oversee the electoral process or consider election-related complaints. The National Electoral Commission, which was separate from the voter registration committee and charged with ensuring the fairness of the elections and handling formal post-election complaints, was controlled by the ruling party and headed by the interior minister, a prominent member of the party. While its membership included a representative of each political party that fielded candidates, it also included representatives from the government, lacked civil society representation, and a majority of its members were ruling party officials. The opposition CPDS party claimed one of its electoral officials was forced with a pistol held to his head to sign off on a vote count.

Opposition party members and candidates operated at a significant disadvantage when attempting to gain voter support. On the whole, opposition parties and their candidates were poorly organized, poorly financed, and lacked public support. Because of quasi-mandatory collection of dues and other contributions, the ruling party had greatly disproportionate funding available, including for gifts to potential voters. Several peaceful political parties banned in recent years were not allowed to participate in the elections. The government denied the opposition equal access to the media. Opposition members and leaders also claimed the government monitored their activities.

Unlike in the previous year, no opposition members were arbitrarily arrested, detained, or tortured; however, opposition candidates were harassed and intimidated during the presidential campaign.

For example, on November 14, a parish priest in the town of Ayene stopped CPDS candidate Placido Mico from holding a rally in the town square in front of the church because, according to the priest, the square was owned by the church. The local chief of police interceded on the priest's behalf and ordered the candidate and his supporters out of the square. The police chief also reportedly ordered local youths to strip campaign posters from the party's own vehicle and brandished a gun while threatening Mico and his supporters. CPDS officials claimed PDGE members assaulted CPDS members.

On November 19, in the town of Aconibe, in President Obiang's home province of Wele-Nzas, security forces, PDGE members, and villagers assaulted supporters of the opposition UP party and its presidential candidate Archivaldo Montero Biribe. Police officials reportedly told UP supporters they were not welcome to rally in the town because all of its inhabitants supported President Obiang. UP party president Daniel Martinez, who sought the intervention of Interior Minister Clemente Nguema, reported he was told "this is Africa, what else do you expect and what do you expect me to do about it?" After receiving the same treatment in the adjacent town of Nsork, UP leaders stopped campaigning in the province. CPDS leaders and the Popular Action Party reported similar treatment in the province, where they also ceased campaigning.

The ruling PDGE party ruled through a complex arrangement built around family, clan, and ethnic loyalties. Indirect pressure for public employees to join the PDGE continued. Opposition party members continued to report they had been discriminated against in hiring, job retention, scholarships, and obtaining business licenses. During the year individuals contended government pressure precluded opposition members from obtaining jobs with foreign companies. Opposition party members claimed businesses found to have hired employees with direct links to families, individuals, parties, or groups out of favor with the government were often forced to dismiss employees or face recrimination.

During the year the government reportedly warned the spouse of an opposition party leader to join the PDGE (presumably to embarrass the opposition leader) or lose her position. The spouse refused to join the PDGE and was fired.

The three legal opposition parties faced restrictions on freedoms of speech, association, and assembly (see sections 2.a. and 2.b.). Some political parties that existed before the 1992 law establishing procedures to legalize political parties remained banned, generally for "supporting terrorism."

During the year the CPDS stated it had no plans to restart a radio station, but it reserved the right to do so in the future. In August 2008, after informing the government in writing of its intention to set up a radio station, the opposition CPDS party began testing its equipment. The government subsequently ordered the CPDS to cease transmitting, raided the station, and seized materials.

The president, who may serve an unlimited number of six-year terms, exercised strong powers as head of state, commander of the armed forces, head of the judiciary, and founder and head of the ruling party. In general leadership positions within government were restricted to the president's party or the coalition of "loyal opposition" parties. Because the ruling party overwhelmingly dominated the commissions established to review electoral practices and recommend reforms, few changes

were made. The minister of the interior was appointed to act as president of the national electoral commission.

The government did not overtly limit participation of minorities in politics; however, the predominant Fang ethnic group, estimated to constitute more than 85 percent of the population, continued to exercise strong political and economic power.

Section 4. Official Corruption and Government Transparency

Laws provide severe criminal penalties for official corruption; however, the government did not implement these laws effectively, and officials frequently engaged in corrupt practices with impunity. Corruption continued to be a severe problem. No corruption cases were prosecuted during the year.

The president and members of his inner circle continued to amass huge personal profits from the oil windfall. According to Human Rights Watch, Teodorin Obiang, the president's son, spent more on luxury goods during 2004-2007 than the government's 2005 budget for education; purchases included a \$35 million mansion, a \$37 million jet, and luxury cars worth at least \$2.6 million. President Obiang claimed information on oil revenues was a "state secret" and resisted calls for transparency and accountability. According to international NGO Global Witness, the government has not disclosed the location of more than two billion dollars in public funds.

In December 2008 anticorruption activist groups, including the French chapter of AI, filed a lawsuit in Paris against President Obiang and two other African heads of state, accusing them of acquiring luxury homes in France with embezzled public funds. The plaintiffs stated there was "no doubt that these assets could not have been acquired solely with the salaries and benefits of these heads of state."

Also in December 2008, a Spanish human rights group filed a formal complaint with anticorruption public prosecutors in Spain, claiming members of President Obiang's family and high-ranking political officials close to the president had illegally embezzled 12.7 billion CFA francs (\$27.73 million) from a state petrol company to buy homes in Spain and had laundered these public funds between 2000 and 2003 in foreign banks. According to media reports, Spain's anticorruption prosecutor had begun investigating allegations against these individuals at year's end.

Officials by law must declare their assets, although no declarations were published publicly. There was no requirement for officials to divest themselves of business interests in potential conflict with official responsibilities, and no law prohibiting conflict of interest. Most ministers continued to moonlight and conduct businesses they conflated with their government responsibilities. For example, the minister of justice had his own private law firm, and the minister of transport and communications was director of the board and owned shares in the parastatal airline and the national telephone company.

The presidency and Prime Minister's Office were the lead agencies for anticorruption efforts. A number of ministers were reportedly replaced following the May 2008 elections as a result of corrupt practices.

During the year the government made additional progress toward meeting objectives required to join the Extractive Industries Transparency Initiative (EITI), a multinational civil society initiative to encourage transparency and accountability in extractive industries, developing an approved work plan and achieving candidate status. However, there remained significant challenges in meeting EITI requirements concerning the development of civil society, and there continued to be lack of transparency in the extractive industries.

In October 2008 the government began disbursing funds for social projects under the social development fund (SDF), a mechanism developed jointly with a foreign donor designed to enhance the transparency of social spending in line with international development norms. Irregularities in handling the funds occurred during the year. For example, funds for selected projects were deposited in the purported bank accounts of various ministries; however, critics charged the accounts actually belonged to the ministers who headed those ministries, thus placing the funds under their direct personal control. One minister reportedly ignored the bids of companies responding to an open solicitation and selected a company he owned, although his company had not submitted a bid; the minister claimed his company was eligible to accept SDF money from the account he controlled.

The law did not provide for public access to government information, and citizens and noncitizens, including foreign media, were generally unable to access government information. A lack of organized record keeping, archiving, and public libraries also limited access.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The law restricts NGO activity, and the few existing domestic human rights NGOs focused on development issues involving social and economic rights, such as health and elder care. Although the law includes human rights among the areas in which NGOs may operate, no NGO reported publicly on the abuse of civil or political rights by the government or on official corruption. In 2008 the government met with domestic NGO representatives to enhance cooperation on efforts to adhere to the transparency principles of EITI. Despite this increased cooperation, the government's attitude toward domestic and international NGOs working in or reporting on the country generally remained "not friendly," according to a foreign diplomat charged with evaluating the status of civil society in the country. Government restrictions, including burdensome registration requirements and lack of capacity to manage and provide the public with information, continued to impede the activities and development of domestic civil society. There were few international human rights NGOs resident in the country, and they generally focused on social and economic rights, not civil and political rights.

The government cooperated to varying degrees with international organizations such as the ICRC and the UN. According to government officials, meetings were held during the year with representatives of the ICRC to discuss reopening an ICRC office in the country. The ICRC had suspended prison visits in March 2008 after the government refused to grant access to some prisoners (see section 1.c.).

During the year the government categorically rejected the 2008 report on detention facilities by UN Special Rapporteur on Torture Manfred Novak. Novak reported torture appeared to reflect a state-endorsed method of obtaining evidence and confessions, and a culture of total impunity allowed torture to continue unabated (see section 1.c.). Novak noted not one conviction for torture could be found in court records and officers known for resorting to torture were able to establish successful careers in the security forces. He also cited "the non-functioning of the administration of justice and, therefore, the absence of the rule of law." Novak recommended the government undertake "profound reform" of its laws, penal system, and judicial and law enforcement institutions. He also recommended the government establish effective monitoring and accountability mechanisms to combat torture and foreign diplomats in Malabo conduct regular monitoring visits to detention facilities. UN officials also recommended the international community, including transnational corporations, ensure they were not complicit in human rights abuses in their business practices and development activities.

The primary organization with some responsibility for human rights, the National Commission for Human Rights (CNDH), was dependent on and heavily influenced by the government and suffered serious funding, staff, and institutional limitations. It did not investigate human rights complaints or keep statistics on them. The president appointed the members of the CNDH.

The parliamentary committee for complaints and petitions provided a forum for the public to register concerns and was increasingly active during the year. The committee accepted complaints and petitions whenever the parliament was in session.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law prohibit discrimination based on race, gender, religion, disability, language, or social status; however, the government did not enforce these provisions effectively. Nonetheless, numerous public outreach efforts were undertaken to improve public awareness of the issues associated with violence and discrimination against women and children, discrimination against ethnic minorities, and discrimination against those with HIV/AIDS.

Women.—Rape is illegal, but spousal rape is not specified in the law. The government did not enforce the law effectively. Reporting rape was considered shameful to families involved. Several prosecutions came before the courts during the year, but the exact number was not known.

Domestic violence was a problem. Violence against women, including spousal abuse, is illegal, but the government did not enforce the law effectively. The police and judiciary were reluctant to prosecute domestic violence cases. In conjunction with international organizations, the government conducted public awareness campaigns on women's rights and domestic violence.

Prostitution is illegal, and the government continued to enforce the law against businesses and pimps; however, prostitution occurred, particularly in the two major cities of Malabo and Bata. Acting on orders of the ministries of interior and national security, police raided places of prostitution during the year.

Sexual harassment is illegal; its extent was unknown. There were no known cases brought before the courts.

The government did not interfere with the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children, and to have the information and means to do so free from discrimination, coercion, and violence. Women were equally diagnosed and treated for sexually transmitted infections, including HIV.

The law provides for equal rights for women and men, including rights under family law, property law, and in the judicial system; however, rights of women were limited in practice. According to the UN Committee on the Elimination of Discrimination against Women, the prevalence of negative stereotypes and the "deep-rooted adverse cultural norms, customs, and traditions, including forced and early marriage, and levirate marriage (the practice by which a man may be required to marry his brother's widow) discriminated against women. Lack of legislation regulating customary marriages and other aspects of family law also discriminated against women, particularly with respect to polygyny, inheritance, and child custody.

In rural areas, women largely were confined by custom to traditional roles. In urban settings women with equal qualifications rarely suffered overt discrimination. However, the country maintained a conservative culture in which societal bias against women persisted. Women sometimes experienced discrimination in access to employment, credit, and equal pay for substantially similar work.

During the year the government provided courses, seminars, conferences, and media programs to sensitize the population and government agencies to the needs and rights of women. For example, on February 15, the Ministry of Social Affairs and Promotion of Women conducted a seminar for members of the judiciary on cultural practices that violate the rights of women, including physical abuse, forced marriage, levirate marriage, and the use of dowry. On May 15, the ministry conducted a similar conference for members of parliament, and in November the ministry held a women's rights seminar for the 68 members of the executive branch.

A foreign development fund, as part of its program to support civil society, dedicated one of its forums to the rights of women. The dominant topics were polygyny and traditional attitudes discriminatory against women.

Children.—Citizenship is derived from one's parents. Registration of births is the responsibility of the parents, and failure to do so can result in the denial of public services.

Education was free and compulsory until 13 years of age. The overwhelming majority of children attended school at least through primary grades. Boys were generally expected by their families either to complete an additional seven years of secondary school or to finish a program of vocational study after primary education. For many girls in rural settings, however, early pregnancy or the need to assist at home limited educational opportunities, and women generally attained lower educational levels than men. During the year the government continued to partner with a foreign oil company to undertake a multimillion dollar school renovation program and continued to work with a foreign country to reform outdated curriculum materials.

Abuse of minors is illegal; however, the government did not enforce the law effectively, and child abuse occurred. Physical punishment was the culturally accepted method of discipline. During the year a small number of cases in which child abuse was alleged came before the courts.

The law does not address child prostitution or child pornography. There was little evidence children engaged in prostitution for survival without third party involvement. The minimum age for sexual consent is 18.

Trafficking in Persons.—The law prohibits trafficking in persons; however, some trafficking through and to the country was suspected. There were no reliable figures on the number of trafficking victims. The country has been primarily a destination for children trafficked for the purposes of forced labor and possibly for the purpose of sexual exploitation. Children were believed to be trafficked from nearby countries, primarily Nigeria, Benin, Cameroon, and Gabon for domestic servitude, market labor, ambulant vending, and other forms of forced labor, such as carrying water and washing laundry. Most victims were believed to be trafficked to Malabo and Bata, where a burgeoning oil industry created demand for labor and commercial exploitation. Women may also have been trafficked to the country from Cameroon, Benin, other neighboring countries, and China for labor or sexual exploitation. In the last year there was a report women of Equatoguinean extraction were also trafficked to Iceland for commercial sexual exploitation.

In the past traffickers generally crossed the border with false documents and children they falsely claimed were their own. However, removal of economic incentives for such activity apparently reduced trafficking to a small number of cases.

The penalties for trafficking in persons for sexual exploitation or other exploitation are imprisonment for 10 to 15 years and a fine of not less than approximately 50 million CFA francs (\$109,000).

When pressed by embassies of identified trafficking victims, the government cooperated with other governments, international organizations, and NGOs to aid victims and assist in their repatriation. However, foreign diplomatic missions confirmed many of their citizens were shipped out of the country before the embassies became aware of a problem.

The Ministry of Justice is responsible for combating trafficking in persons, and the minister of justice was president of the interinstitutional commission on illegal trafficking of migrants and trafficking of persons. The Ministry of Social Affairs and Promotion of Women is responsible for addressing issues related to protection of trafficking victims.

The government provided limited protection or assistance to victims or witnesses. During a February 2-6 visit to the country, a consultant from the International Organization of Migration noted there were no shelters to house victims of trafficking or other vulnerable populations for a temporary period. The government generally asked the embassies of victims' countries of origin, if present, to assume care of victims until they could be repatriated. However, the government had no procedure in place to even notify embassies if one of their nationals had been identified as a trafficking victim. There were few NGOs in the country to assist victims.

The government, through the National Action Plan to Fight Against Trafficking in Persons and Child Labor, continued to fund a program to educate the public against trafficking, assist victims, and punish offenders.

During the year the government continued to provide antitrafficking training to security forces; more than 800 security officials have received such training since 2007.

State Department's annual Trafficking in Persons Report can be found at <http://www.state.gov/j/tip>.

Persons With Disabilities.—The law does not provide protection for persons with disabilities from discrimination in employment, education, or the provision of other state services, nor does it mandate access to buildings for persons with disabilities.

Educational services for the mentally or physically handicapped were limited. The local Red Cross, with financial support from the government, managed the country's school for deaf children. The government and Catholic Church worked together to provide care for the mentally handicapped in the Virgin Madre Maria Africa facility.

The ministries of education and health have primary responsibility for protecting the rights of persons with disabilities. Public service announcements regarding rights of persons with disabilities continued to be broadcast.

National/Racial/Ethnic Minorities.—Discrimination against ethnic or racial minorities was illegal; however, societal discrimination, security force harassment, and political marginalization of minorities were problems. Foreigners were often victimized. Illegal residents from Nigeria, Ghana, Cameroon, Mali, Togo, Gabon, and other African countries represented a significant portion of the labor force and continued to grow, despite police attempts to enforce immigration laws. Foreign workers from West Africa and elsewhere were attracted to the country by its growing oil-based economy.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Societal stigmatization and discrimination against homosexual persons was strong, and the government made little effort to combat it.

Other Societal Violence and Discrimination.—Despite frequent public statements and radio campaigns advocating nondiscrimination, persons with HIV/AIDS continued to be victims of societal stigmatization, which led them to keep their illness hidden. The government provided free HIV/AIDS testing and treatment and supported public information campaigns to increase awareness.

Section 7. Worker Rights

a. The Right of Association.—The law provides workers the right to establish unions and affiliate with unions of their choice, without previous authorization or excessive requirements; however, the government placed practical obstacles before groups wishing to organize. Most often, those seeking to organize were co-opted into existing party structures by means of pressure and incentives. The Union Organization of Small Farmers continued to be the only legal operational labor union. According to the International Trade Union Confederation, authorities continued to

refuse to register the Equatorial Guinea Trade Union. The law stipulates a union must have at least 50 members from a specific workplace to register; this rule effectively blocked union formation. Authorities refused to legalize the Independent Syndicated Services, a public sector union, despite its having met the requirements of the law.

Workers rarely exercised their right to strike, in part because they feared losing their jobs and possible harm to themselves or their families. On rare occasions workers engaged in temporary protests or “go slows” (work slowdowns and planned absences).

Unlike in the previous year, there were no reports security forces killed strikers. No action was taken against police responsible for the 2008 killing of two Chinese strikers.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct activities without interference, but the government did not protect this right in practice.

The law provides for representatives of government, employers, and workers to meet biannually to review and set minimum wages; however, worker representation was limited. There were few reports of organized, collective bargaining by any group; however, the Ministry of Labor sometimes mediated labor disputes. Dismissed workers, for example, could appeal to the ministry, first through their regional delegate; however, there was little trust in the fairness of the system. Citizens had a right to appeal Labor Ministry decisions to a special standing committee of the parliament established to hear citizen complaints regarding decisions by any government agency.

There is no law prohibiting antiunion discrimination, but there were no reports it occurred.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor and slavery, including by children; however, children were trafficked for forced labor and sexual exploitation (see section 6).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits children under the age of 14 from working and provides that persons found guilty of illegally forcing a minor to work may be punished with a fine from approximately 50,000 to 250,000 CFA francs (\$109 to \$545); however, child labor occurred. The law prohibits children from working as street vendors or car washers; however, children performed such activities. Children also worked in local markets and were involved in domestic servitude.

Law enforcement officials were often stationed in market places, where they enforced laws prohibiting minors from working there. Vendors who violated these laws were forced to close down their stalls, were heavily fined, or deported; however, no vendors were prosecuted during the year. The government provided no social services to children found to be working in markets.

The Ministry of Labor is responsible for enforcing child labor laws.

e. Acceptable Conditions of Work.—Enforcement of labor laws and ratified international labor agreements was not effective, resulting in poor working conditions. While the government paid more attention to such issues during the year, safety codes, for example, were not generally enforced. Most petroleum companies, on the other hand, exceeded minimum international safety standards.

On April 25, the government issued Public Decree 60/2009, which establishes a monthly minimum wage of 95,400 CFA (approximately \$205) for all workers in the country, including farmers; however, the minimum wage did not provide a decent standard of living for a worker and family in Malabo or Bata. In the rest of the country, the minimum wage provided a minimally adequate income. Many formal sector companies paid more than this, but many workers (e.g., farmers) were not covered under the minimum wage law. By law hydrocarbon industry workers received salaries many times higher than those in other sectors, creating disparities within society and fueling inflation for some goods and services. The Ministry of Labor is responsible for enforcing minimum wage rules.

The law prescribes a standard 35-hour workweek and a 48-hour weekly rest period; these requirements were generally observed in the formal economy. Exceptions were made for some jobs, such as those in offshore oil industry work. Premium pay for overtime was required, but the requirement was not effectively enforced.

The law provides for protection for workers from occupational hazards, but the government did not effectively enforce this provision. During the year the government hired an additional 100 labor inspectors to oversee the industry. The law does

not provide workers with the right to remove themselves from situations that endangered health or safety without jeopardizing their continued employment.

ERITREA

Eritrea,¹ with a population of an estimated 5.5 million, is a one-party state that became independent in 1993 when citizens voted for independence from Ethiopia, following 30 years of civil war. The People's Front for Democracy and Justice (PFDJ), previously known as the Eritrean People's Liberation Front, is the sole political party and has controlled the country since 1991. The country's president, Isaias Afwerki, who heads the PFDJ and the armed forces, dominated the country, and the government continued to postpone presidential and legislative elections; the latter have never been held. The border dispute with Ethiopia continued, despite international efforts at demarcation. The situation was used by the government to justify severe restrictions on civil liberties. Although civilian authorities generally maintained effective control of the security forces, consistent and systemic gross human rights violations persisted unabated at the government's behest.

Human rights abuses included abridgement of citizens' right to change their government through a democratic process; unlawful killings by security forces; torture and beating of prisoners, sometimes resulting in death; abuse and torture of national service evaders, some of whom reportedly died from their injuries while in detention; harsh and life-threatening prison conditions; arbitrary arrest and detention, including of national service evaders and their family members; executive interference in the judiciary and the use of a special court system to limit due process; and infringement on privacy rights, including roundups of young men and women for national service, and the arrest and detention of the family members of service evaders. The government severely restricted freedoms of speech, press, assembly, association, and religion. The government also limited freedom of movement and travel for citizens in the national service, foreign residents, employees of diplomatic missions, the UN, and humanitarian and development agencies. Restrictions continued on the activities of nongovernmental organizations (NGOs) and the International Committee of the Red Cross (ICRC). Female genital mutilation (FGM) was widespread, and societal abuse and discrimination against women, members of the Kunama ethnic group, homosexuals, and persons with HIV/AIDS were problems. There were limitations on worker rights, including forced labor.

The government acted as a principal source and conduit for arms to antigovernment, extremist, and insurgent groups in Somalia, according to a June report issued by the UN Munitions Monitoring Group.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—In August opposition Web sites released a report claiming that in 2002 the government executed Berhane Gebregzabbier, one of the 11 members of the PFDJ National Assembly who had been held in solitary confinement since 2001 for opposing the president. The execution was carried out based on the recommendations of Naizghi Kiflu, a former presidential advisor believed to currently reside in London. An additional eight persons died in prison from natural causes, according to the report released by opposition Web sites (see section 1.d.). The nine deceased were part of what was known as the G-15, a group of high-ranking political activists who regularly pushed the president for democratic reform during the country's formative years. The government arrested 11 members of the G-15 in September 2001; one member recanted his statements, and three were out of the country.

The government continued to authorize the use of lethal force against individuals resisting or attempting to flee during military searches for deserters and draft evaders, and the practice reportedly resulted in deaths during the year. Several persons detained for evading national service died after harsh treatment by security forces. There were reports that individuals were severely beaten and killed during roundups of young men and women for national service.

It was unknown if the government continued the practice of summary executions and of shooting individuals on sight near the Djibouti border, allegedly for attempt-

¹United States personnel were not permitted to travel outside of the capital of Eritrea, and had very limited access to citizens and government officials in the country. This report draws in large part on non-U.S. government sources.

ing to flee military service, as was the case in 2008. In June 2008 the international media reported that the Eritrean military shot at their own defecting soldiers who broke rank along the Djibouti border, instigating the Djibouti-Eritrea border conflict. Soldiers who broke rank claimed that the government issued a “shoot to kill” proclamation for deserters and escapees.

There were no reports of deaths from mistreatment/hazing of conscripts or other soldiers. There were numerous reports that persons detained because of their religious affiliation died from security force abuse. The government did not investigate or prosecute any report of security force abuse.

According to the government Commission for Coordination with the UN Peacekeeping Mission, an estimated three million land mines and unexploded ordnance remained from the 30-year war and the 1998-2000 conflict with Ethiopia. Unlike in previous years, there were no reports that opposition groups laid new mines. The Eritrean Demining Authority halted demining activities in the Temporary Security Zone between Eritrea and Ethiopia in 2008 after the UN Mine Action Committee departed from Eritrea. Currently, the UN Development Programme supports explosive ordnance disposal and the UN Children’s Fund (UNICEF) funds mine risk education for school children and families in mine-impacted communities.

b. Disappearance.—Eritrean refugees and asylum seekers repatriated from other countries during the year reportedly disappeared. In January the government of Egypt repatriated several hundred Eritrean refugees and asylum seekers, all of whom were returned to their families, according to the government. Nevertheless, there were numerous reports from family members of missing individuals, mostly young men and women who had not completed national service.

In June 2008, 1,200 Eritreans were repatriated from Egypt, many of whom remained missing at year’s end. In May 2008 German immigration authorities returned two Eritrean nationals, neither of whom had been seen since their arrival in Asmara.

The whereabouts of at least 15 journalists and several employees of diplomatic missions arrested by the government in 2001 remained unknown.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law and the ratified but unimplemented constitution prohibit torture; however, there were numerous reports that security forces resorted to torture and beatings of prisoners, particularly during interrogations. There were credible reports that several military conscripts died following such treatment. Security forces severely mistreated and beat army deserters, draft evaders, persons attempting to flee the country without travel documents and exit permits, and members of certain religious groups. Security forces subjected deserters and draft evaders to such disciplinary actions as prolonged sun exposure in temperatures of up to 120 degrees Fahrenheit; the binding of hands, elbows, and feet for extended periods; and suspension from trees for extended periods. No known action was taken during the year to punish perpetrators of torture and abuse.

There were numerous reports, corroborated by prison escapees, that torture was widely used in detention facilities. For example, authorities suspended prisoners from trees with their arms tied behind their backs, a technique known as “almaz” (diamond). Authorities also placed prisoners face down with their hands tied to their feet, a technique known as the “helicopter.”

According to Human Rights Watch, refugees from the country reported that female conscripts in national service were often raped by their supervisors. There were also reports that military officials tortured foreign fishermen captured in Eritrean waters.

Prison and Detention Center Conditions.—Prison conditions remained harsh and in some cases life threatening. Severe overcrowding was common. There were reports that prisoners were held in underground cells or in shipping containers with little or no ventilation in extreme temperatures. The shipping containers were reportedly not large enough to allow all of those incarcerated to lie down at the same time. Other prisoners were held in cement-lined underground bunkers with no ventilation. Up to 200 prisoners were held in each bunker, and some prisoners passed out from the extreme heat.

During the year Wi’a Military Camp closed its prison. Religious prisoners were relocated to the desert prison Metier while others were taken to a prison just outside of Dekemhare.

While statistics were unavailable, there were some deaths in prison due to illness and poor health care.

There were several unofficial detention centers, most located in military camps and used as overflow detention centers following mass arrests and roundups. There were reports that detention center conditions for persons temporarily held for evad-

ing military service were also harsh and life threatening. Allegations from various sources suggested there may have been hundreds of such detainees. Draft evaders were reportedly sent to the Wi'a military camp, where typically they were beaten. Some were held as long as two years before being reassigned to their units. At one detention facility outside Asmara, authorities continued to hold detainees in an underground hall with no access to light or ventilation and sometimes in very crowded conditions.

Use of psychological torture was common, according to former inmates. One common technique was for the interrogator to constantly open and close the door of the cell, as if the prisoner was going to be taken for interrogation. Denial of food, medical treatment, and family access were also used to punish prisoners. Some prisoners were released after close friends or relatives offered their homes or other property as bond.

Deaths occurred in prisons and detention centers as a result of inadequate nutrition, disease, and denial of medical care. For example, numerous deaths occurred at the Wi'a Military Camp prison due to widespread disease and lack of medical care. In August a meningitis outbreak at a prison in Massawa reportedly resulted in the deaths of dozens of inmates.

The government did not release the total number of prisoners and detainees.

Those imprisoned were often interrogated about religious affiliation and were asked to identify members of nonapproved religious groups, such as Jehovah's Witnesses.

During the year the government did not permit the ICRC or any local human rights organizations to monitor prison conditions. Since the shutdown of the repatriation program during the year, the government also denied the ICRC access to Ethiopian prisoners of war detained in the country.

Although there was a juvenile detention center in Asmara, juveniles frequently were held with adults in prisons and detention centers. Juveniles as young as 15 were tried as adults. Pretrial detainees were not always separated from convicted prisoners.

Authorities generally permitted convicted criminals in prisons three visits per week by family members; however, persons detained, arrested, or convicted for reasons of national security or for evading national service were denied family visits.

d. Arbitrary Arrest or Detention.—The law and unimplemented constitution prohibit arbitrary arrest and detention; however, arbitrary arrest and detention remained chronic problems.

Role of the Police and Security Apparatus.—Police were officially responsible for maintaining internal security, and the army was responsible for external security; however, the government could call on the armed forces, the reserves, and demobilized soldiers to meet either domestic or external security requirements. Agents of the National Security Office, which reports to the Office of the President, were responsible for detaining persons suspected of threatening national security. The military had the authority to arrest and detain civilians. Generally police did not have a role in cases involving national security, but they were heavily involved in rounding up individuals evading national service.

Police, who often were conscripted, were poorly paid, and corruption was a problem. During the year there were reports of police and other security forces committing crimes to supplement their income, including breaking into homes to confiscate jewelry, money, and food. Police typically used their influence as government officials to assist friends and family, such as in facilitating family members' release from prison. There were reports that police demanded bribes to release detainees and that military forces accepted money to smuggle citizens out of the country. There were no mechanisms to address allegations of official abuse, and impunity was a problem.

During the year the police, military, and internal security arrested and detained persons without due process and often used violence. Police forcibly arrested individuals on the street who were unable to present identification documents. Those in the government national service were required to present "movement papers" issued by their offices or departments authorizing their presence in a particular location. Those persons who did not present "movement papers" were arrested.

Arrest Procedures and Treatment While in Detention.—The law stipulates that detainees must be brought before a judge within 48 hours of arrest and may not be held more than 28 days without being charged with a crime. In practice authorities often detained suspects for much longer periods. The law stipulates that unless there is a "crime in progress," police must conduct an investigation and obtain a warrant prior to making an arrest. In cases involving national security, this process may be waived. In practice very few individuals were arrested with a warrant. Au-

thorities did not promptly inform detainees of charges against them and often changed the charges during detention. Detainees in prisons often did not have access to counsel or appear before a judge. Incommunicado detention was widespread, although detainees in police stations generally had access to legal representation and family members. Authorities provided indigent detainees with counsel on an irregular basis. There was a functioning bail system, except for persons charged with national security crimes or crimes that could carry the death penalty.

Security force personnel detained individuals for evading national service and on other unspecified national security charges. Numerous detainees were arrested even if they had valid papers showing that they had completed, or were exempt from, national service. In practice, most detainees were informally charged with issues relating to national service, effectively allowing authorities to incarcerate citizens indefinitely.

Security forces also continued to detain and arrest the parents and spouses of individuals who evaded national service or fled the country (see section 1.f.).

Unlike in previous years, there were very few reports of mass arrests known as “round-ups,” in which citizens were held without charge indefinitely while authorities sorted out their military service paperwork in search of deserters. Many citizens believed that this was because the government had already thoroughly scoured the major cities numerous times and caught most deserters.

The government does not recognize dual nationality, and during the year security forces arbitrarily arrested citizens holding other nationalities on national security charges. There were reports that plainclothes agents of the National Security Office entered homes without warrants and arrested occupants.

Numerous reports also indicated that persons with connections to high-level officials instigated the arrest of individuals with whom they had personal vendettas. In many instances these individuals were never formally charged.

The government continued to arbitrarily arrest members of nonregistered religious groups and persons who criticized the government (see sections 2.a. and 2.c.). There were reports that the government continued to hold without charge numerous members of the Eritrean Liberation Front, an armed opposition group that fought against Ethiopia during the struggle for independence.

Opposition Web sites reported during the year that nine of the 11 PFDJ National Assembly members who were detained in 2001 and 2002 were reported to have died while in prison. Eight of the prisoners died from lack of medical treatment for diabetes, bladder and kidney infections, asthma, and other physical ailments. One prisoner, Berhane Gebregzabhier, was reportedly executed by the government per the recommendation of Naizghi Kiflu, a former presidential advisor.

At least four Eritrean diplomats arrested in previous years, including former ambassador to China Ermias Debassai Papayo, remained in detention, as did Aster Yohannes, wife of former foreign minister Petros Solomon. Two citizens who worked for a foreign embassy have remained in detention without charge since 2001. Several citizens employed with international and local NGOs remained in detention without charge as a result of a massive round-up in August 2008.

The government held numerous other detainees, including an unknown number of the NGO employees detained in an August 2008 round-up (see section 5). The detainees included an unknown number of persons suspected of antigovernment speech or of association with the 11 former PFDJ members arrested in 2001. Suspected Islamic radicals or suspected terrorists also remained in detention without charge. Some had been detained for more than 10 years. These detainees reportedly did not have access to legal counsel and were not brought before a judge. The government continued to detain the deposed Orthodox patriarch (see section 2.c.). There were widespread reports many detainees were released without going to trial.

e. Denial of Fair Public Trial.—The law and unimplemented constitution provide for an independent judiciary; however, the judiciary was weak and subject to executive control. Judicial corruption remained a problem. The judicial process was influenced by patronage of former fighters who in many cases were judges themselves. Executive control of the judiciary continued; the Office of the President served as a clearinghouse for citizens’ petitions to the courts or acted for the courts as arbitrators or facilitators in civil matters. The judiciary suffered from a lack of trained personnel, inadequate funding, and poor infrastructure that limited the government’s ability to grant accused persons a speedy and fair trial. Public trials were held, but no cases involving individuals detained for national security or political reasons were brought to trial. The drafting into national service of many civilian court administrators, defendants, judges, lawyers, and others involved in the legal system continued to have a significant negative impact on the judiciary. The government had not issued licenses to lawyers seeking to enter private practice for 10 years.

The text of the constitution was completed and ratified by the National Assembly in 1997. It contains provisions intended to promote fair trials; however, the constitution had not been implemented by year's end.

The judicial system consists of civil courts and "special courts." The civil court system includes community courts, regional courts, and the High Court, which also serves as an appellate court. Minor infractions involving sums of less than approximately 110,000 nakfa (\$7,300) are brought to community courts. The regional court is generally the court of the first instance and has civil, criminal, and Shari'a (Islamic law) benches. The Shari'a bench adjudicates family law for followers of Islam only. Decisions rendered by any of the benches at the regional court can be appealed to the High Court. The High Court is primarily an appellate court but also serves as the court of first instance for cases involving murder, rape, and other serious felonies. The High Court has civil, criminal, and Shari'a benches. There also is a five-judge bench that hears final appeals in lieu of a Supreme Court.

The executive-controlled special courts issue directives to other courts regarding administrative matters, although their domain was supposed to be restricted to criminal cases involving capital offenses, theft, embezzlement, and corruption. The Office of the Attorney General decides which cases are to be tried by a special court. No lawyers practice in the special courts. The judges serve as the prosecutors and may request that individuals involved in the cases present their positions. The special courts, which do not permit defense counsel or the right of appeal, allowed the executive branch to mete out punishment without regard for due process. Most trials in special courts were not open to the public.

Many civilian and special court judges are former senior military officers with no formal legal training. They generally based their decisions on "conscience" without reference to the law. There was no limitation on punishment, although the special courts did not hand down capital punishment sentences during the year. The attorney general allowed special courts to retry civilian court cases, including those decided by the High Court, thereby subjecting defendants to double jeopardy. In rare instances appeals made to the Office of the President reportedly resulted in special courts rehearing certain cases.

Most citizens' only contact with the legal system was with the traditional community courts. In these courts judges heard civil cases, while magistrates versed in criminal law heard criminal cases. Customary tribunals were sometimes used to adjudicate local civil and criminal cases. The Ministry of Justice offered training in alternative dispute resolution to handle some civil and criminal cases.

The military court has jurisdiction over penal cases brought against members of the armed forces in addition to crimes committed by and against members of the armed forces. Presiding judges are senior military officers, and the court has higher and lower levels, depending on the seriousness of the offense. With nearly 200,000 enlisted in the armed forces, the military courts have a significant and unregulated importance in the country.

Shari'a for family and succession cases may be applied when both litigants in civil cases are Muslims. In these cases the sentences imposed may not involve physical punishment.

Trial Procedures.—The law and unimplemented constitution provide specific rights to defendants in the regular court system. Defendants have the right to be present and to consult with an attorney; however, many defendants lacked the resources to retain a lawyer, and government legal aid was limited to defendants accused of serious crimes punishable by more than 10 years in prison. Only in the High Court did defendants have the right to confront and question witnesses, present evidence, gain access to government-held evidence, appeal a decision, and enjoy the presumption of innocence; these rights were upheld in practice.

Rural courts followed customary law rather than constitutional law and were headed by rural elders or elected officials. Smaller cases in rural areas were encouraged to be reconciled outside the court system, while more substantial cases were reserved for the courts. These procedures did not apply in the special courts. Trials in rural courts were open to the public but were not heard by a jury; they were heard by a panel of judges.

Political Prisoners and Detainees.—There were no confirmed reports of political prisoners; however, several hundred individuals were detained beginning in 2001 for political reasons. Many were perceived to have ties to political dissidents or were believed to have spoken against government actions. Most of these detainees had not been tried and did not have access to legal counsel. The ICRC was not authorized to visit these detainees, and no information was available on their condition or circumstances of detention.

Civil Judicial Procedures and Remedies.—There are no civil judicial procedures for individuals claiming human rights violations by the government. For the majority of citizens there were few remedies available for enforcing domestic court orders; however, persons affiliated with the executive branch, former fighters, and persons with wealth could use their influence with the court to secure civil remedies before the law.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law and unimplemented constitution prohibit such actions; however, the government did not respect these rights in practice.

The government deployed military and police throughout the country, using roadblocks, street sweeps, and house-to-house searches to find deserters and draft evaders. Security forces continued to detain and arrest parents of individuals who evaded national service duties or fled the country, along with their family members; there were reports that such parents were either fined 50,000 nakfa (\$3,333) or forced to turn their children in to the government. Government officials entered households and confiscated the property and livestock of draft evaders. Some security officials accepted bribes to aid draft evaders in crossing the border.

There were reports of security forces arresting persons whose expatriate family members did not pay their extraterritorial income tax.

There were reports that security forces targeted gatherings of unregistered religious groups, regularly searched their homes, and detained their members. There were also reports that the government sometimes seized the property of registered religious groups (see section 2.c.).

The government monitored mail, e-mail, text messages, and telephone calls without obtaining warrants as required by law. Government informers were believed to be present throughout the country. Many citizens believed the government particularly monitored cell phones; the government requires a permit for use of SIM cards, necessary for operating and storing information in mobile phones. The government allowed only one SIM card per person, although many citizens generally had more. The government did not allow citizens in military service to have SIM cards. There were reports of the government arresting those who rented their cell phones to others.

There were multiple reports that military and government officials seized residences and businesses belonging to private citizens and religious organizations and subsequently housed the families of senior military officers or government officials in the properties, used them for government or military functions, or reassigned ownership to government and military officials.

In 2008 the government demanded that departing NGOs hand over financial and reporting documents to government officials. While membership in the PFDJ, the government's only sanctioned political party, was not mandatory for all citizens, the government coerced membership for certain categories of individuals, particularly those occupying government positions or assigned through national service to serve in government institutions. All citizens were forced to attend PFDJ indoctrination meetings irrespective of membership, and there were reports of threats to withhold the ration cards of those who did not attend. There were reports that similar meetings were mandatory for Eritrean communities abroad, with names of those not in attendance being reported to government officials. Citizens who did not attend reportedly were harassed. Officials also collected biographical and contact information on Eritrean residents living abroad.

Eritrean officials reportedly monitored refugee camps in neighboring countries, such as Kenya and Sudan, and discouraged refugees from engaging in political activity.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law and unimplemented constitution provide for freedom of speech and of the press; however, the government severely restricted these rights in practice. Citizens did not have the right to criticize their government in public or in private, and some who did were arrested or detained. The private press remained banned, and most independent journalists remained in detention or fled the country, which effectively prevented any public and media criticism of the government. All journalists practiced self-censorship due to fear of government reprisal.

The government attempted to impede criticism and took reprisals against persons who criticized government officials or policies. During the year persons were arrested for publicly complaining about poverty. The government monitored meetings within the country and abroad. The government also continued to forbid free speech. In an October interview with Reuters, the president stated that he would not allow independent media to operate in Eritrea.

The government controlled all media, which included three newspapers, three radio stations, and two television stations. The law does not allow private ownership of broadcast or other media. The government banned the import of foreign publications without prior approval; however, individuals were permitted to purchase satellite dishes and subscribe to international media. The government had to approve publications distributed by religious or international organizations before their release, and the government continued to restrict the right of religious media to comment on politics or government policies. The press law forbids reprinting of articles from banned publications. The government also required diplomatic missions to submit all press releases for approval before their publication in the government media.

Unlike in 2008, the government permitted only one reporter representing a foreign news organization, Reuters, to operate in the country; however, the government did not grant permission for the reporter to travel outside the capital. In February 2008 the government created administrative obstacles for the Agence-France Presse (AFP) international journalist resulting in his forced departure. AFP had not been allowed to return to the country since. The president occasionally conducted interviews with foreign news agencies invited specifically for the interview.

The Swedish reporter who was held by the government for nearly four years, released for medical treatment in 2005, and detained again a few days later, remained in detention without charge at year's end. In a May 29 televised interview, the president stated he had no intention of releasing the journalist or providing him with a trial. At year's end the government had not responded to the Swedish government's calls for the journalist's release.

Journalists were often subject to arrest, harassment, intimidation, and violence. For example, in January the government conducted a raid on Radio Bana, one of three government-owned radio stations, and arrested all employees present, including one foreign journalist who was later released. It was unclear how many employees of Radio Bana remained in detention at year's end.

Although libel or national security laws were not used to suppress criticism directly, citizens remained fearful of speaking out against the government or its policies. In both its report to the UN during its Universal Periodic Review and in interviews, the government repeatedly implied that national security concerns were at the root of suppressing free speech and criticism.

According to Reporters Without Borders, at least 30 journalists and two media workers remained in detention at year's end, including Eri-TV journalists Ahmed "Bahja" Idris, Johnny Hisabu, Senait Tesfay, Fathia Khaled, and Amir Ibrahim; Radio Dimtsi Hafash employees Daniel Mussie and Temesghen Abay; and Yemane Haile of the Eritrean News Agency. All those detained, except Hisabu, who was held in a detention center in Barentu, were reportedly held in a police-run complex in Asmara known as Agip. Included among the 30 were at least 15 local journalists who were arrested in 2001 for political reasons.

Some of the nine Ministry of Information journalists arrested in 2006 were released in 2007, and others remained in detention at year's end.

Radio stations opposed to the government were founded by former journalists who fled the country during the 2001 crackdown. For example, Radio Assenna, created during the year, was founded in Europe by two former Eri-TV broadcasters.

Internet Freedom.—There were no official restrictions on the use of the Internet; however, the government monitored Internet communications. The government monitored e-mail without obtaining warrants as required by law (see section 2.a.). All Internet service users were required to use one of the three Internet service providers owned, either directly or through high-ranking PFDJ party members, by the government.

The government also discouraged citizens from viewing Web sites known to be antigovernment by continuously labeling the sites and their developers as saboteurs of the government. Many citizens expressed fear of arrest if the government caught them viewing such sites.

According to International Telecommunication Union statistics for 2008, approximately 1.8 percent of the country's inhabitants used the Internet.

Academic Freedom and Cultural Events.—The government restricted academic freedom, including restricting or censoring course content or curriculum, censoring or sanctioning academic personnel for their teachings, writing, or research, restricting academic travel or contact with other academics at home and abroad, intimidating academics into practicing self-censorship, and influencing academic appointments based on political affiliation.

In 2002 the government reorganized the University of Asmara, which effectively shut down the university's undergraduate programs. As a result, prospective students were not allowed to enroll in the university and instead were directed by the

government to attend the Mai Nafhi Technical Institute. Students finishing high school were not permitted to choose their next course of study and were assigned to specific vocational programs based on their performance on the matriculation exam, but only those students completing military training at Sawa or receiving a medical waiver were allowed to take the exam. A few graduate-level programs remained at the university; however, the law school was effectively closed, as new students were not permitted to enroll.

The government denied exit visas to many students who wanted to study abroad. University academics who wished to travel abroad for further study or training were required to seek permission in advance from the university president and the government.

During the year the government censored, canceled, or closed films, art exhibits, and other cultural activities. For example, the government routinely monitored libraries and cultural centers maintained by foreign embassies, threatening censure of material and in some instances intimidating and harassing employees.

b. Freedom of Peaceful Assembly and Association.—Freedom of Peaceful Assembly.—The law and unimplemented constitution provide for freedom of assembly and association; however, the government did not permit either. For gatherings of more than three persons, the government required those assembling to obtain a permit, although this requirement was enforced sporadically.

There were no demonstrations during the year; the populace remained intimidated by the government.

During the year security forces disrupted public meetings and cultural gatherings. Security forces typically took photographs and recorded the names of participants and interrogated participants upon arrival and departure.

Freedom of Association.—The law and unimplemented constitution provide for freedom of association; however, the government did not respect these rights.

The government did not allow the formation of any political parties other than the PFDJ. It also prohibited the formation of any associations or private organizations (see section 3).

c. Freedom of Religion.—The law and unimplemented constitution provide for freedom of religion; however, the government restricted this right in practice. Only the four religious groups whose registrations had been approved by the government (Orthodox Christian, Muslim, Catholic, and Lutheran) were allowed to meet legally during the year. Security forces continued to abuse, arrest, detain, and torture members of nonregistered churches; at times such abuse resulted in death.

During the year there continued to be reports that security forces used extreme physical abuse such as bondage, heat exposure, and beatings to punish those detained for their religious beliefs. Numerous detainees were reportedly required to sign statements repudiating their faith or agreeing not to practice it as a condition for release. There also continued to be reports that relatives were asked to sign for detainees who refused to sign such documents.

Authorities continued to detain, harass, and abuse hundreds of followers of various unregistered churches (mostly Protestant) during the year. Many of those detained were held in military prisons for not having performed required national military service. Some were held for refusing to belong to a specific religious group. Several pastors and dozens of women were among the imprisoned. Several were released after recanting their faith; however, many refused to recant and continued to be detained in civilian and military detention facilities across the country. While some were detained for short periods of time and released, approximately 3,000 individuals remained in detention at year's end because of their religious affiliation, according to the NGO Compass Direct.

The government also continued to harass, detain, and discriminate against Jehovah's Witnesses because of their refusal, on religious grounds, to vote in the independence referendum and the refusal of some to perform military duty. This discrimination persisted even though Jehovah's Witnesses stated a willingness to perform nonmilitary national service, such as working in hospitals.

Although members of several religious groups, including Muslims, reportedly were imprisoned in past years for failure to participate in national military service, the government singled out Jehovah's Witnesses for harsher treatment than that received by followers of other faiths for similar actions. In the past the government dismissed members of Jehovah's Witnesses from the civil service, and many were evicted from, or not allowed to occupy, government housing. Members of Jehovah's Witnesses frequently were denied passports and exit visas, and some had their identity cards revoked or did not receive them at all.

During the year the government arrested the wives and daughters of male members of Jehovah's Witnesses arrested in 2008; the practice sometimes resulted in the

incarceration of entire families. An estimated 65 members of Jehovah's Witnesses were detained at year's end.

In January security forces arrested 30 young Muslims in Asmara believed to be influential in their communities; the 30, who were charged with "radicalism," were released in July and ordered to shave their beards.

The government also continued to monitor, harass, threaten, and arrest members of the four "compliant" religious groups (Faith Mission Church, Seventh-day Adventists, Baha'i Faith, and the Mehrete Yesus Evangelical Church), whose religious services it had not approved.

There were no developments in the following 2008 cases: the arrest of 19 members of Jehovah's Witnesses; the December arrest of more than 17 leaders of "noncompliant" religious groups; the November arrests of more than 100 evangelical Christians; and the October detention of military trainees who protested the government's confiscation and burning of Bibles. It was unknown how many continued to be detained. It was unknown if the practice of burning Bibles from incoming military trainees continued as in previous years.

In May 2008 the government issued religious officials from the four recognized religious groups a set number of identity cards and exempted them from military service requirements. Officials who were not awarded a card were told to report immediately for military training. No such exemptions were provided during the year.

In 2008 there were reports of government officials, including the Eritrean ambassador to Kenya, Saleh Omer, being complicit in the physical abuse and torture of an Eritrean religious official in Nairobi. Ambassador Saleh Omer was also reportedly responsible for threatening church members and seizing church funds. There were additional reports of the government being responsible for the deposing of three former Orthodox priests in Nairobi.

The government effectively remained in charge of the Eritrean Orthodox Church. In 2006 the Holy Synod, under government pressure, deposed Patriarch Abune Antonios of the Eritrean Orthodox Church on charges that he had committed heresy and was no longer following church doctrine. The synod selected a new patriarch, Dioscoros. Deposed Patriarch Antonios remained under house arrest and at year's end continued to challenge the selection of Patriarch Dioscoros. The lay administrator appointed by the government in 2005 remained the de facto head of the church; the administrator was neither a member of the clergy nor an appointee of the patriarch, as required by the constitution of the Eritrean Orthodox Church.

The government continued to take possession of the weekly offerings given by parishioners to the Orthodox Church. The government-appointed lay administrator of the Orthodox Church claimed that the government used the money from the offerings to pay priests and provide alms for the poor.

The government prohibited political activity by religious groups and faith-based NGOs. The government's Office of Religious Affairs monitored compliance with this proscription. The government also encouraged discrimination against the non-approved religious groups, reportedly distributing a memo in October 2008 discouraging neighborhoods from allowing these groups to use burial plots.

Societal Abuses and Discrimination.—There were negative societal attitudes toward members of nonregistered religious organizations. Some citizens approved of the strict official measures levied against unsanctioned churches, especially Pentecostal groups and Jehovah's Witnesses.

There was a very small Jewish population; there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection or Refugees, and Stateless Persons.—The law and unimplemented constitution provide for freedom of movement, foreign travel, emigration, and repatriation; however, the government restricted some of these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) in assisting refugees who were not from Ethiopia. The government also cooperated with the UNHCR to provide protection and assistance to approximately 4,300 Somali and 100 Sudanese refugees. The government's Office of Refugee Affairs managed the refugee camps, providing hospitals, schools, and other resources. The government did not recognize Ethiopians as refugees and did not cooperate with the UNHCR on this issue.

While citizens could generally travel freely within the country and change their places of residence, the government restricted travel to some areas within the country, particularly along the borders with Sudan and Ethiopia. The government continually modified its requirements to obtain passports and exit visas, sometimes suspending passport or exit visa services without prior warning. Citizens partici-

pating in national service were often denied internal travel permits, passports, and exit visas. Many persons who previously were issued passports were not allowed to renew them, nor were they granted exit visas. Military police periodically set up roadblocks in Asmara and on roads between cities to find draft evaders and deserters. Police also stopped persons on the street and forcibly detained those who were unable to present identification documents or movement papers showing they had permission to be in that area.

Citizens and some foreign nationals were required to obtain exit visas to depart the country. Persons routinely denied exit visas included men up to the age of 54, regardless of whether they had completed national service; women under the age of 47; members of Jehovah's Witnesses; and other persons out of favor with, or seen as critical of, the government. In 2006 the government began refusing to issue exit visas to children 11 years and older. The government also refused to issue exit visas to children, some as young as five years of age, either on the grounds that they were approaching the age of eligibility for national service or because their expatriate parents had not paid the 2 percent income tax required of all citizens residing abroad. Some citizens were given exit visas only after posting bonds of approximately 150,000 nakfa (\$10,000).

Travel restrictions imposed in 2006 on noncitizens remained in effect. All diplomats, humanitarian organizations, UN staff, and foreign tourists were required to obtain advance permission from the government to leave Asmara. Travel restrictions were enforced at military checkpoints. Travel permission was not a transparent process. While some foreign nationals obtained permission to travel to certain locations, the government refused to issue travel permits to others traveling to the same place. The government often failed to respond to requests for travel authorization.

The government prevented NGO travel by cutting off fuel supplies (see section 5.)

The law has no provisions concerning exile.

The government does not recognize dual citizenship; therefore, all persons of Eritrean descent are citizens. In general citizens had the right to return; however, citizens had to show proof that they paid the 2 percent tax on foreign earned income to be eligible for some government services, including exit visas upon their departure from the country. Applications to return to the country filed by citizens living abroad were considered on a case-by-case basis if the applicant had broken the law, contracted a serious contagious disease, or was declared ineligible for political asylum by other governments.

In August the government halted its repatriation program with the ICRC, preventing the repatriation of thousands of Ethiopians. In 2008 the government, in conjunction with the ICRC, repatriated 1,714 Ethiopians; and 52 citizens were repatriated from Ethiopia.

Internally Displaced Persons.—During 2008 almost all of the IDPs from the conflict with Ethiopia were permanently resettled, although 1,800 IDP families remained in the Gash Baraka region. The government allowed UN organizations and the ICRC to provide assistance to former IDPs.

Protection of Refugees.—The country was not a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol and was not a party to the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. As a result the government cannot provide legal refugee or asylum status; however, in practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government provided temporary protection to approximately 135 persons from Sudan and 4,300 persons from Somalia on a prima facie basis. Reports indicated that the government provided resources to Ethiopian refugees only if the refugees joined Ethiopian opposition groups. Ethiopian refugees who did not join opposition groups reportedly were harassed by government officials.

The government required noncitizens to pay an annual fee for a residency card; there was no discrimination regarding nationality. The fee was 500 nakfa (\$34); the card was used to demonstrate that a foreigner was not indigent. If the foreigner could not pay the fee, he was first referred to the ICRC for repatriation. If he refused repatriation, he was incarcerated for 60 days, at which point the cycle began again.

The government systematically rounded up Ethiopians each year around the country's liberation day, May 24. The Ethiopians were held in a camp until authorities verified that they were not indigent. All Ethiopians who were rounded up were released approximately one month after Liberation Day.

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

The law and unimplemented constitution provide citizens with the right to change their government peacefully; however, citizens were not allowed to exercise this right in practice.

Elections and Political Participation.—The government came to power in a 1993 popular referendum in which voters chose to have an independent country managed by a transitional government; however, the transitional government did not permit the formation of a democratic system. The government twice scheduled elections in accordance with the constitution but cancelled them without explanation. An official declaration in 2003 claimed that, “in accordance with the prevailing wish of the people it is not the time to establish political parties, and discussion of the establishment has been postponed.” Government officials also stated that implementation of the constitution was not possible until the border demarcation with Ethiopia was finalized. In 2008 the president claimed in an Al-Jazeera interview that elections might not take place for another 30 or 40 years. The country was a one-party state. Power rested with the PFDJ and its institutions. At times the government coerced membership in the PFDJ.

Although no political parties operated in the country, citizens living abroad established several political parties. During the year the government continued to call individuals who created or were involved in such parties traitors, rapists, pedophiles, and traffickers.

Women held four ministerial positions in the government: justice, labor and human welfare, tourism, and health. Women also served in other senior government positions, such as mayors and regional administrators.

There was no information on whether members of ethnic minorities were on the PFDJ's Executive Council or served on the Central Council. Some senior government and party officials were members of minority groups such as the Tigre.

Section 4. Official Corruption and Government Transparency

The law does not provide criminal penalties for official corruption; however, the government often arrested many individuals it unofficially charged with corruption. Those arrested under these charges were never tried in court. The World Bank's 2008 governance indicators reflected that corruption was a problem.

There were reports of petty corruption within the executive branch, largely based on family connections. Judicial corruption was a problem. There were allegations of corruption among military leaders involving illicit trade, the appropriation of houses, and the black market selling of goods such as diesel and cement. Corruption was rife in the passport office, and individuals requesting exit visas or passports had to pay bribes.

Public officials were not subject to financial disclosure laws, and there was no government agency responsible for combating government corruption.

In the past the government seized successful private companies and turned them over to the party or to the government. Individuals were not compensated for these seizures. During the year the government also seized crops and other foodstuffs from individuals and turned them over to the ruling party.

Although the law and unimplemented constitution provide for public access to government information, the government did not provide information to either citizens or noncitizens.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

No domestic human rights groups and only four international humanitarian NGOs (Oxfam, Lutheran World Federation, Catholic Relief Services, and Norwegian Church Aid) operated in the country; the government interfered with and restricted their work. Catholic Relief Services began the process of shutting down its office during the year after receiving notification it was not in compliance with government regulations.

The government allowed three ruling party-aligned domestic rights NGOs—Citizens for Peace in Eritrea, Eritrean War Disabled Fighters Association, and Vision Eritrea, Inc.—to operate. All NGOs were required to register with the Ministry of Labor and Human Welfare, but international NGOs were required to maintain 30 million nakfa (\$2 million) in a local bank. Many failed to receive government approval under the registration process and were required to leave the country.

In 2008 the international NGOs CARE and Dutch Interchurch Aid closed operations and departed the country, citing obstruction and government harassment. In 2006 the government asked five NGOs—Mercy Corps, ACCORD, Samaritan's Purse,

International Rescue Committee, and Concern—to close operations and depart the country, which they did.

In previous years the government permitted only the ICRC to operate effectively, although it limited ICRC operations to repatriation, providing shelter to approximately 500 families displaced by the conflict with Ethiopia, visiting prisons and detention centers where Ethiopians were held, and providing assistance to IDPs. However, during the year the government severely restricted ICRC operations and prevented the organization from repatriating Ethiopians to Ethiopia and from monitoring the conditions of Ethiopian prisoners of war.

Of the dozens of NGO employees rounded up and detained by the government during August 2008 raids on NGO compounds, at least a half dozen remained in detention.

In 2008 the government cut off diesel supplies for international NGOs, UN agencies, and the ICRC. These organizations were able to purchase unrationed gasoline at the market price; however, these restrictions made it increasingly difficult for NGOs, the UN, and the ICRC to visit project sites, implement new projects, or carry out resettlements. At year's end the NGOs continued to be denied rationed fuel.

The government did not permit humanitarian food distribution by NGOs or by the World Food Program (WFP), although it allowed UNICEF to continue its supplemental feeding programs, and supplemental feeding and hospital feeding programs continued under the supervision of the Ministry of Health. By requiring NGOs and UN organizations to obtain permission to travel outside the capital, the government effectively controlled access by relief organizations to the rural areas. The status of school feeding programs was unknown at year's end. The WFP maintained an office but did not have any programs operating in country. UNICEF funded several feeding programs through the Ministry of Education. However, several UN organizations and NGOs cited malnutrition as an increasing concern, one which could not be adequately addressed with the current limited feeding programs.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law and unimplemented constitution prohibits discrimination against women, persons with disabilities, and discrimination based on race, language, and social status, and the government generally enforced these provisions; however, during the year the government provided privilege to former "revolutionary fighters" and granted them access to business opportunities, trade imports, and expropriated property from non-fighters.

Women.—Rape is a crime punishable by up to 10 years' imprisonment, while gang rape or rape of a minor or an invalid is punishable by up to 15 years in prison. Sexual assault is punishable by six months to eight years in prison. It was unclear whether spousal rape is illegal. No information was available on the prevalence of rape. Authorities often responded to reports of rape by encouraging the perpetrator to marry the victim.

Violence against women was pervasive. Domestic violence is a crime; however, domestic violence cases were rarely brought to trial, and there were no legal penalties enshrined into law. Women seldom openly discussed domestic violence because of societal pressures. Such incidents were more commonly addressed, if at all, within families or by clergy. The authorities' response to domestic violence was hindered by a lack of trained personnel, inadequate funding, and unsupportive societal attitudes.

Prostitution is illegal but was a serious problem. Security forces occasionally followed women engaged in prostitution and arrested those who had spent the night with a foreigner.

Sexual harassment is illegal; however, cultural norms prevented women from reporting these types of incidents, and no one was charged or prosecuted for sexual harassment.

Couples and individuals maintained the basic right to decide freely and responsibly the number, spacing, and timing of their children, and to have the information and means to do so free from discrimination, coercion, and violence.

The government provided access to contraception and equal access to treatment and diagnosis for sexually transmitted diseases, including HIV/AIDS.

Women have a legal right to equal educational opportunities, equal pay for equal work, and equal property rights; however, in practice men retained privileged access to education, employment, and control of economic resources, particularly in rural areas. Women generally did not enjoy a social status equal to men.

The law requires that women from 18 to 47 years of age participate in national service. During the year the government continued efforts to detain female draft evaders and deserters. According to reports, some women drafted for national service were subjected to sexual harassment and abuse.

The National Union of Eritrean Women (NUEW), Ministry of Labor and Human Welfare, and Ministry of Health were the primary government offices responsible for ensuring legal rights of women. Economic discrimination against women was not a problem, despite the social discrepancies.

Children.—Citizenship was derived from one's parents and from obtaining a national identity card. It was possible to be born abroad to Eritrean parents without being a citizen simply by not applying for a national identity card. There were no known instances of someone being born to Eritrean parents in country and not having obtained citizenship.

Education through grade seven is compulsory and tuition free; however, students were responsible for uniforms, supplies, and transportation, which was prohibitively expensive for many families. Education above grade seven required a nominal fee and was not compulsory. There was a shortage of schools and teachers at all levels, remedied in part by holding morning and afternoon shifts at schools. In rural areas young girls usually left school early to work at home.

The government required all students who reached the final year of secondary school to attend school at a location adjacent to the Sawa military training facility in the western section of the country. Students who did not attend this final year did not graduate and could not take examinations that determined eligibility for advanced education. The remote location of this boarding school, security concerns, and societal attitudes reportedly resulted in many female students not enrolling for their final year; however, women could earn an alternative secondary school certificate by attending night school after completing national service. Many students elected to repeat grades or dropped out of high school after the 11th grade to avoid forced conscription into the Sawa military education.

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

There are no laws against child abuse and no government programs to combat the problem. Physical punishment was widespread and socially accepted.

An estimated 94 percent of girls had undergone FGM. Almost all ethnic and religious groups in the country practiced FGM, despite extensive government efforts to curb the practice. In the lowlands, infibulation—the most severe form of FGM—was practiced. In 2007 the government issued a proclamation declaring FGM a crime and prohibited its practice. The government and other organizations, including the NUEW and the National Union of Eritrean Youth and Students, sponsored a variety of education programs during the year that discouraged the practice.

The legal minimum age for marriage for both men and women is 18, although religious entities may bless marriages at younger ages. UNICEF reported that 46 percent girls were married before 18 years of age.

There were no known instances of children engaged in prostitution for survival with or without third party involvement. The law criminalizes child prostitution, pornography, and sexual exploitation; however, there were reports that it occurred.

All students spend their final year of high school at the military training camp in Sawa. Attendance at Sawa was compulsory and those who did not attend remain at risk of arrest. Students at Sawa were typically 18 or older, although a fair percentage were as young as 16. The initial three months of school were spent undergoing military training. Students who received poor grades in high school had in the past been sent to the Wi'a Military Camp in lieu of being allowed to complete the academic year.

The law prohibits the recruitment of children under the age of 18 years into the armed forces; however, children under the age of 18 have been conscripted in rare instances. It was not known if rebel groups within the country recruited soldiers under the age of 18.

During the year humanitarian groups and interlocutors anecdotally noted an increase from previous years in the number of street children due in part to an increase in economic hardship. UNICEF funded programs for street children; however, the increase in the number of street children was larger than the impact of programs provided by UNICEF.

Trafficking in Persons.—The law and unimplemented constitution prohibit trafficking in persons, and there were no reports that persons were trafficked to, from, or within the country by outside groups or individuals. However, the government's mandatory national service program required citizens to work for indefinite periods of time without promotion or freedom of movement and with inadequate pay (see section 7.c.). Thousands of citizens fled during the year to avoid national service.

The State Department's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The law and unimplemented constitution prohibit discrimination against persons with disabilities in employment, education, or in the

provision of other state services, and there were no reports of discrimination in practice. The government dedicated substantial resources to support and train the thousands of men and women with physical disabilities that resulted from the war for independence and the conflict with Ethiopia. There are no laws mandating access for persons with disabilities to public thoroughfares or public or private buildings, but many newly constructed buildings provided such access. The Ministry of Labor and Human Welfare was responsible for the rights of persons with disabilities.

National/Racial/Ethnic Minorities.—There were reports of government and societal discrimination against the Kunama, one of nine ethnic groups residing primarily in the west. Societal abuse of Ethiopians occurred, but there were fewer reports of such abuse than in the previous year.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Homosexuality is illegal, and homosexual persons faced severe societal discrimination. The government accused foreign governments of promoting the practice to undermine the government. There were no known official discriminatory practices against civilians, although there were uncorroborated reports that known homosexual persons in the military were subjected to severe abuse. There were no known lesbian, gay, bisexual, or transgender organizations in country.

Section 7. Worker Rights

a. The Right of Association.—The law provides workers with the legal right to form and join unions to protect their interests; however, some government policies restricted free association or prevented the formation of some unions, including within the civil service, military, police, and other organizations providing essential services. The government ran all unions, including the Teacher's Union, Women's Union, Youth's Union, and Worker's Union. Membership in these unions was required. The government did not encourage the formation of independent unions by employees of private businesses. Union leaders were typically government employees, and union activities were generally government sanctioned. The Ministry of Labor and Human Welfare must grant special approval for groups of 20 or more persons seeking to form a union. There were no reports that the government opposed the formation of labor associations during the year; however, the government did not approve the formation of any unions.

The law allows strikes; however, all unions were closely aligned with the government and thus did not exercise or promote the right to strike.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and collective bargaining is allowed. In practice all unions were subservient to the government, which set wages for union workers, employees of PFDJ-owned enterprises, and government employees. Wages were set independently in the small private sector, although workers were not allowed to organize independently.

Since most businesses were government-owned, unions did not experience antiunion discrimination.

The Eritrean Free Zone in Massawa, authorized in 2006 to attract foreign and local investors, was not operational by year's end.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, forced labor occurred, particularly in national service program.

The government required all men between the ages of 18 and 54 and women between the ages of 18 and 47 to participate in the national service program, which included military training and civilian work programs. However, the criteria for demobilization were unclear, and many were required to work indefinitely in any location or capacity chosen by the government. Reports indicated citizens were enlisted in the national service for many years below minimum-wage rates with no prospective end date, no promotion or salary increases, and restricted freedom of movement since those employed under national service were often denied passports or exit visas. The government justified its open-ended draft on the basis of the undemarcated border with Ethiopia. Some national service members were assigned to return to their civilian jobs while nominally kept in the military because their skills were deemed critical to the functioning of the government or the economy. These individuals continued to receive only their national service salary; the government required them to forfeit to the government any money they earned above and beyond that salary. Government employees generally were unable to leave their jobs or take new employment. Draft evaders often were used as laborers on government development projects.

d. Prohibition of Child Labor and Minimum Age for Employment.—Although the government has a national plan of action to protect children from exploitation in the workplace, it was not enforced effectively, and child labor occurred. The legal minimum age of employment is 14 years. The law prohibits minors from working in transport industries or working underground, such as in mines and sewers. It was common for rural children who did not attend school to work on family farms, fetching firewood and water, and herding livestock, among other activities. In urban areas children could be seen in auto mechanic outfits working in car repair shops. Some children worked as street vendors of cigarettes, newspapers, or chewing gum to supplement household income or at the behest of older children. There were no known instances of forced child labor.

There were no known reports of children engaged in the worst forms of child labor; however, in urban areas children were engaged in auto and bicycle repair or transport of grain/goods via donkey carts. In rural areas children assisted with farming corn, wheat, sorghum, and other grains.

Labor inspectors from the Ministry of Labor and Human Welfare were responsible for enforcing child labor laws, but inspections were infrequent, and enforcement of child labor laws was ineffective.

Some of the major programs implemented to prevent child labor included government preschool services in rural and urban areas and academic and vocational training.

e. Acceptable Conditions of Work.—The minimum wage in the civil service sector of 360 nakfa (\$24) per month did not provide a decent standard of living for a worker and family. Most persons in national service and the service industry made less than the minimum wage. For instance, police officers earn between 50 and 400 nakfa per month (between \$3.33 and \$26.67). The government did not enforce the minimum wage law.

The standard workweek was 44.5 hours, but many persons worked fewer hours. Workers were entitled to one rest day per week; most workers were allowed from one to one and one-half days off per week. There are no prohibitions against excessive overtime. Citizens are legally entitled to overtime, except for those employed under national service; however, citizens were rarely forced to work more than the 44.5-hour workweek.

The government instituted occupational health and safety standards, but inspection and enforcement varied widely among factories. In practice some workers were permitted to remove themselves from dangerous work sites without retaliation.

During the year there was no known discrimination against foreign or migrant workers, although Ethiopians stated it was difficult to find work and believed they faced discrimination.

ETHIOPIA

Ethiopia is a federal republic led by Prime Minister Meles Zenawi and the Ethiopian People's Revolutionary Democratic Front (EPRDF) coalition. The population is estimated at 77 million. In the 2005 parliamentary elections, the EPRDF won a majority of seats to remain the ruling party for a third consecutive five-year term. In local and by-elections held in April 2008, the EPRDF and allied parties took virtually all of the more than three million open seats contested nationwide. Prior to the vote, ruling coalition agents and supporters used coercive tactics and manipulation of the electoral process, including intimidation of opposition candidates and supporters. Political parties were predominantly ethnically based, and opposition parties remained splintered. During the year fighting between government forces, including local militias, and the Ogaden National Liberation Front (ONLF), an ethnically based, nationalist, insurgent movement operating in the Somali Region, resulted in continued allegations of human rights abuses, particularly diversion of food aid from intended beneficiaries suffering from a severe drought. While civilian authorities generally maintained effective control of the security forces, there were numerous instances in which elements within those forces acted independently of government authority.

Human rights abuses reported during the year included unlawful killings, torture, beating, abuse and mistreatment of detainees and opposition supporters by security forces, often acting with evident impunity; poor prison conditions; arbitrary arrest and detention, particularly of suspected sympathizers or members of opposition or insurgent groups; police, administrative and judicial corruption; detention without charge and lengthy pretrial detention; infringement on citizens' privacy rights, including illegal searches; use of excessive force by security services in an internal

conflict and counterinsurgency operations; restrictions on freedom of the press; arrest, detention, and harassment of journalists; restrictions on freedom of assembly and association; violence and societal discrimination against women and abuse of children; female genital mutilation (FGM); exploitation of children for economic and sexual purposes; trafficking in persons; societal discrimination against persons with disabilities and religious and ethnic minorities; and government interference in union activities, including harassment of union leaders.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—Security forces committed arbitrary and politically motivated killings during the year.

Government forces, including militias, and armed elements of the ONLF were responsible for targeted killings in the Somali region during the year (see section 1.g.).

On January 7, local police shot and killed Debasu Yengusie Mengesha and teacher Gobeze Wudu, residents of Yetnora kebele (neighborhood) in the Amhara Region while they were leaving a bar. The perpetrators were detained and remained under investigation at year's end.

On February 25, students at Gedo Secondary School (West Shoa Zone, Oromiya region) found a flier containing hateful remarks about Oromos. When the school principal delayed in investigating the case, Oromo students refused to attend classes and demonstrated inside the school compound. The principal called local police, who ordered students to disperse. When they refused, police shot and killed Wendimu Damena, a 19-year-old student. Another student, 20-year-old Belay Motuma, was shot in the chest and remained hospitalized at year's end. Two students, Berecha Folesa and Tamari Melaku Weyesa, were arrested during the demonstration and were released on bail on March 9. On March 17, six school administration employees and one agricultural bureau employee, all of whom were opposition Oromo People's Congress (OPC) candidates in the 2008 local elections, were arrested and charged with inciting violence. The case remained pending at year's end.

In October 2008 local police and militia in Zeba kebele (Dejen woreda, East Gojam zone, Amhara Region) shot and killed three brothers—Yayeh Yirad Assefa, Negusu Assefa, and Temesgen Assefa. The brothers were reportedly suspected of killing a militiaman from Najima kebele on the same date. There was no official investigation into the incident.

There were no developments in the July 2008 killing of opposition political party All Ethiopia Unity Party (AEUP) supporter Aschalew Taye.

In 2007 Welelaw Muche, a supporter of the former opposition party Coalition for Unity and Democracy (CUD) in Enamrit town (West Gojjam zone, Mecha woreda, Amhara region) was shot and killed, reportedly by a government militiaman. On May 6, a government newspaper acknowledged the death but said that the killer remained unknown.

According to a May government report, Tamene Tadesse, Gue town security chief, was charged with use of excessive force and was sentenced to 15 years in prison for the 2007 fatal shootings of two students in Gue town (Oromiya region).

There were no developments in any cases of other 2007 killings.

Addis Ababa and other areas experienced bombings that killed civilians during the year. Although no one claimed responsibility, the government charged the bombings were the work of insurgent groups or agents of Eritrea. On April 14, a land mine exploded in the Danakil Depression area of the Afar Region, killing two persons and wounding two. The government claimed the South Red Sea Rebel Liberation Front was responsible, although this remained unconfirmed.

There were no developments in the following 2008 bombing cases: the Humera public bus bombing; the Humera school explosion; the Addis Ababa gas station bombing; the minibus bombing allegedly committed by the Oromo Liberation Front (OLF); the bombing of two hotels in Negele Borena, Oromiya region; the Merkato bombing; and the Jijiga hotel bombing.

On December 15, two hand grenades thrown into a crowded cafe in Kebri Dehar town, Somali region, killed one woman and wounded nine. The government claimed the perpetrators were four Eritreans supporting the rebel Ogaden National Liberation Front. Perpetrators are in police custody pending investigation.

Clashes between ethnic clans during the year resulted in hundreds of deaths (see section 6).

b. Disappearance.—There were reports of politically motivated disappearances.

In February 2008, Alexander Gebre Meskel, a 40-year-old resident of Kirkos subcity, Addis Ababa, disappeared. He previously reported to his family that he was being followed by security forces. His whereabouts remained unknown at year's end.

There were no developments in the 2008 disappearances of Ethiopian Teacher's Association members Tilahun Ayalew and Anteneh Getnet.

There were no developments in the following reported 2007 disappearances: Yohannes Woldu Girma Tesfaye Ayana, Befekadu Bulti Merri, Mulatu Gebremichel, Ismail Blatta, Daniel Worku, and Amha Yirga.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the constitution and law prohibit the use of torture and mistreatment, there were numerous credible reports that security officials tortured, beat, and mistreated detainees. Opposition political party leaders reported frequent and systematic abuse and intimidation of their supporters by police and regional militias.

Numerous reliable sources confirmed that in Maekelawi, the central police investigation headquarters in Addis Ababa, police investigators often used physical abuse to extract confessions. Several political prisoners who were held at Maekelawi and other nontraditional detention facilities independently alleged in credible detail that they and other detainees were tortured in police station jails in attempts by security officials to elicit confessions before their cases went to trial. Abuses reportedly include being blindfolded and hung by the wrists for several hours, bound by chains and beaten, held in solitary confinement for several days to weeks or months, subjected to mental torture such as harassment and humiliation, forced to stand for more than 16 hours, and having heavy objects hung from the genitalia. The government generally denied reports of torture in detention centers and did not respond to specific reports of abuse.

Several of the defendants in the Ginbot Seven trial, who were arrested on April 24 and charged with attempting to engage in terrorist activities, reported harsh physical abuse and torture during pretrial interrogations. On November 13, defendants reported to the court that they were tortured by prison guards. A government spokesman denied the allegations. In December the Federal High Court convicted 40 defendants, pronouncing death sentences on Berhanu Nega, Muluneh Eyoel, Andargachew Tsige, Mesfin Aman (all charged in absentia), and Melaku Teferra.

The court pronounced life sentences on 33 convicted defendants: Alehubel Amare (charged in absentia); Yaregal Yimam (charged in absentia); Dan (full name not available; charged in absentia); Aweke Afework (charged in absentia); Dereje Habtewold (charged in absentia); Daniel Assefa (charged in absentia); Chekol Getahun (charged in absentia); Efreem Madebo (charged in absentia); Fasil Yenealem (charged in absentia) Brigadier General Teferra Mamo; Asamnew Tsige; Tsige Habtemaryam; Mengistu Abebe; Lt. Col. Solomon Ashagre; Lt. Col. Alemu Getenet; Major Mesekere Kassa; Lt. Col. Getachew Berele; Captain Temesgen Bayleyegn; Getu Worku; Lt. Col. Fantahun Muhaba; Lt. Col. Abere Asefa; Major Misganaw Tessema; Yeshiwas Mengesha; Emawayish Alemu; Lt. Col. Demsew Anteneh; Yeshiwas Mitiku; Gobena Belay; Amerar Bayabil; Goshirad Tsegaw; Wudneh Temesgen; Yibeltal Birhanu; Major Mekonen Worku; Kifle Sinshaw.

The court sentenced two convicted defendants—Major Adugna Alemayehu and Major Adefris Asaminew—who had pled guilty to 10 years in a maximum security prison and deprivation of civil rights for four years.

There were no developments in the February 2008 beating of Gelaye Tadele while in local police custody in Arba Minch town of the Southern Nations region.

There were no developments in the 2007 case of Ayena Cheri, who was arrested on suspicion of being a member of the OLF and who has alleged repeated severe beatings while in detention.

Nine of the 37 CUD members arrested and tortured in 2006 remained in prison at year's end.

Prison and Detention Center Conditions.—The country has three federal and 117 regional prisons. There are several unofficial detention centers operating throughout the country, including in Dedessa, Bir Sheleko, Tolay, Hormat, Blate, Tatek, Jijiga, Holeta, and Senkele. Most are located at military camps and were allegedly used as overflow detention centers following mass arrests.

Prison and pretrial detention center conditions remained harsh and in some cases life threatening. Severe overcrowding was common, especially in sleeping quarters. The government provided approximately eight birr (\$0.60) per prisoner per day for food, water, and health care. Many prisoners supplemented this with daily food deliveries from family members or by purchasing food from local vendors. Medical care was unreliable in federal prisons and almost nonexistent in regional prisons. Water shortages caused unhygienic conditions, and most prisons lacked appropriate sanitary facilities.

While statistics were unavailable, there were some deaths in prison due to illness and poor health care. Prison officials were not forthcoming about reports of such deaths. Several pardoned political prisoners had serious health problems in deten-

tion but received little treatment. In Shashamene Correctional Facility, four inmates died during an epidemic in 2008 due to lack of medical attention, according to a report by the Ethiopian Human Rights Commission (EHRC).

In December 2008 the EHRC reported there were 80,974 persons in prison, of whom 2,123 were women and 487 were children detained with their mothers. Juveniles were often incarcerated with adults, sometimes with adults who were awaiting execution. Men and women prisoners were generally, but not always, separated. Authorities generally permitted visitors but sometimes arbitrarily denied visit requests. In some cases family visits to political prisoners were restricted to a few per year. Pretrial detainees were often held together with convicted prisoners.

During the year the International Committee of the Red Cross (ICRC) visited regional prisons only but remained barred from visiting any sites in the Somali region. The government continued to prevent ICRC representatives from visiting police stations and federal prisons throughout the country including those where opposition, civil society, and media leaders were held. Regional authorities allowed the ICRC to meet regularly with prisoners without third parties being present. The ICRC also continued to visit civilian Eritrean nationals and local citizens of Eritrean origin detained on alleged national security grounds.

The local nongovernmental (NGO) Prison Fellowship Ethiopia (JFA-PFE) was granted access to various prison and detention facilities, including federal prisons. JFA-PFE operated a "model" prison in Adama with significantly better conditions compared with other prisons. JFA-PFE reported that the government was supportive of their efforts. The government also periodically granted diplomatic missions access to regional prisons and prison officials, subject to advance notification.

During the year the government established regional "Justice Forums" throughout the country to improve coordination among the Ministry of Justice (MOJ), Regional Security, and the Prison Administration. The government increased the budget allocated for constructing new prisons to alleviate overcrowding.

d. Arbitrary Arrest or Detention.—Although the constitution and law prohibit arbitrary arrest and detention, the government frequently did not observe these provisions in practice.

Role of the Police and Security Apparatus.—The Federal Police Commission reports to the Ministry of Federal Affairs, which is subordinate to the parliament; however, this subordination is loose in practice. Local militias also operated as local security forces largely independent of the police and military. Corruption remained a problem, particularly among traffic police who routinely solicited bribes. Impunity also remained a serious problem. According to sources at government agencies, the government rarely publicly disclosed the results of investigations into abuses by local security forces, such as arbitrary detentions and beatings of civilians. The federal police acknowledged that many of its members as well as regional police lacked professionalism. In July the Addis Ababa Police Commission fired 444 staff members, including high-ranking officials, for involvement in serious crimes including armed robbery, rape, and theft. There were no prosecutions of those dismissed.

The government continued efforts to train police and army recruits in human rights. During the year the government continued to seek assistance from the ICRC, JFA-PFE, and EHRC to improve and professionalize its human-rights training and curriculum by including more material on the constitution and international human rights treaties and conventions. JFA-PFE conducted human rights training for police commissioners and members of the militia.

Arrest Procedures and Treatment While in Detention.—Authorities regularly detained persons without warrants and denied access to counsel and family members, particularly in outlying regions. Although the law requires detainees to be brought to court and charged within 48 hours, this generally was not respected in practice. While there was a functioning bail system, it was not available in murder, treason, and corruption cases. In most cases authorities set bail between 500 and 10,000 birr (\$40 and \$800), which was too costly for most citizens. Police officials did not always respect court orders to release suspects on bail. With court approval, persons suspected of serious offenses can be detained for 14 days and for additional 14-day periods if an investigation continues. The law prohibits detention in any facilities other than an official detention center; however, there were dozens of unofficial local detention centers used by local government militia and other formal and informal law enforcement entities. The government provided public defenders for detainees unable to afford private legal counsel, but only when their cases went to court. While in pretrial detention, authorities allowed such detainees little or no contact with legal counsel. Police continued to enter private residences and arrest individuals without warrants (see section 1.f.). Opposition party members consistently and credibly reported that in small towns, authorities detained persons in police stations

for long periods without charge or access to a judge, and that sometimes these persons' whereabouts were unknown for several months. Opposition parties registered many complaints during the year that government militias beat and detained their supporters.

On April 24, security officials detained 32 persons allegedly affiliated with Ginbot Seven, an external opposition group, for their suspected involvement in a terrorist assassination plot. Those charged included several current and retired army officers, including two generals, along with senior opposition political figures. Those detained were held for more than a month without charges while police gathered evidence, during which time family members were not informed of their whereabouts. The detainees were denied pretrial access to legal counsel, and several alleged mistreatment while in detention. On August 6, the Federal High Court found 13 other defendants guilty in absentia, one not guilty in absentia, and the 32 who were detained were ordered to present their defense cases. Of the 32, the court acquitted five defendants on November 19. On December 22, the court sentenced 40 Ginbot Seven defendants: five to death, 33 to life terms, and two to 10 years' imprisonment.

On May 27, customs authorities detained Ethiopian Human Rights Council (EHRCO) chairman and prominent human rights lawyer Abebe Worke and Voice Of America (VOA) reporter Meleskachew Amha for allegedly attempting to illegally sell imported duty-free publishing equipment that belonged to Addis Broadcasting Company (ABC), of which both were shareholders (see section 2.a.). Meleskachew and Abebe were detained at the Customs Authority compound, not a formal detention facility, for 12 days before being released on bail. Abebe fled the country for fear of persecution. On July 15, the Federal First Instance Court dropped all charges against Meleskachew due to lack of evidence. Abebe was sentenced in absentia to one year's imprisonment and fined 1.4 million birr (\$112,000).

ABC General Manager Amelework Tadesse and three others were arrested on the same date. Amelework was charged with attempting to illegally sell duty-free equipment to a third party. The other cases were dropped due to lack of evidence. Amelework's case was pending at year's end.

On June 1, Werebabo woreda, Bistima, town officials (South Wollo zone, Amhara region) arrested EHRCO investigator Mulugeta Fentaw. Mulugeta was returning home after investigating alleged cases of harassment of opposition political party Unity for Democracy and Justice (UDJ) members in Bistima town. While waiting at a bus stop, Werebabo woreda Security Chief Makonnen Hussein confiscated Mulugeta's notebook, which contained sensitive summaries of his interviews. Immediately thereafter, police accused Mulugeta of stealing 2,000 birr (\$160) and arrested him. At the police station he was searched, and when police found only 200 birr (\$16) in his possession, they modified the charge to claim that he stole only 200 birr (\$16). Mulugeta was arrested and jailed for three days. He was brought to the woreda court on June 3, where he was convicted and sentenced to eight months' imprisonment. He appealed to the zonal high court. On July 17, the high court dismissed the case, stating that such acts by the woreda court eroded public confidence in the judiciary. The woreda administration appealed and brought another charge of "tarnishing the reputation of woreda officials by bringing false witnesses." Mulugeta again appealed to the high court, which dismissed the case.

One of Mulugeta's defense witnesses, Alemu Abaineh, was arrested a couple of days after testifying in court. He was accused of stealing and carrying antitank grenades and plotting to attack the militia. He was sentenced to four years' imprisonment. He appealed to the high court and was released on bail. The trial continued at year's end.

According to government reports, of those opposition AEUP members arrested at a Chendiba wedding in 2008, Wagnew Tadesse, Demissie Yehualla, Kolagie Jegne, Teffera Akemu, and Setegne Tadege were released, while Mekuanent Seneshaw, Alehegne Mekuanent, Kifle Tadege, and Endale Tadege remained in prison at year's end, charged with holding an illegal political gathering in the form of a wedding.

There were no developments in the 2007 case in which Kenyan authorities turned over to the Ethiopian National Defense Forces (ENDF) 150 suspected fighters in Somalia, at least 10 of whom remained in ENDF custody.

In October 2008 officials arrested at least 53 ethnic Oromos (possibly as many as 200) for alleged support of the banned OLF. Of the 53 persons arrested, 38 were released, and the cases of the remaining 15 were pending at year's end.

In 2007 security forces arrested approximately 450 individuals, many of whom were opposition party members, suspected of supporting the OLF or carrying out terrorist activity. Of the 148 who remained in jail at the end of 2008, 35 were sentenced during the year to four to 14 years' imprisonment, while the remaining 113 were released.

Following a 2008 investigation on prison conditions, the EHRC reported that the overwhelming majority of detainees in prisons were held on pending charges. For example, only 10 percent of prisoners in Gambella prison had been convicted and 46 percent of those in Addis Ababa. Some prisoners reported being detained for several years without being charged and without trial. A lack of modern record-keeping systems resulted in prisoners sometimes not benefiting from parole and not receiving credit for time served.

In May the director general of the Federal Police reported that 65 percent of the 45,000 criminal cases filed at the federal first instance court in 2008 were eventually dropped due to lack of evidence or witnesses.

Amnesty.—On September 10, regional authorities in the Amhara and Oromiya regions granted amnesty to 9,612 prisoners.

On October 5, the government granted amnesty to 384 prisoners based on a recommendation from the National Pardon Board.

On December 15, the government granted amnesty to 10 leaders and members of the former Coalition for Unity and Democracy based on a recommendation from the National Pardon Board.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary. Although the civil courts operated with independence, the criminal courts remained weak, overburdened, and subject to significant political intervention and influence. Constitutional interpretation remains solely the responsibility of the upper house of parliament, consisting exclusively of ruling party members, which also handles judicial appointments and reviews judicial conduct. In practice courts have discretion to convict defendants on charges not raised by the prosecution.

The government continued to decentralize and restructure the judiciary along federal lines with the establishment of courts at the district, zonal, and regional levels. The Federal High Court and the Federal Supreme Court heard and adjudicated original and appeal cases involving federal law, transregional matters, and national security. The regional judiciary was increasingly autonomous.

Regional offices of the federal MOJ monitored local judicial developments. Some regional courts had jurisdiction over both local and federal matters, as the federal courts in those jurisdictions had not begun operation; overall, the federal judicial presence in the regions was limited. Because of this, many citizens residing in rural areas did not have reasonable access to the federal judicial system at any level and were effectively forced to rely on traditional conflict-resolution mechanisms such as the Elders' Councils. Several women complained of lack of access to free and fair hearings in the traditional justice system because they were excluded from participation in the Elders' Councils and because there was strong gender discrimination in rural areas.

Some local officials believed they were not accountable to a higher authority.

The judicial system severely lacked experienced staff, sometimes making the application of the law unpredictable. The government continued to train lower court judges and prosecutors and made effective judicial administration the primary focus of the training. To address overcrowding, in October the government allocated 147 million birr (\$11.76 million) to construct five new courthouses in Addis Ababa and Dire Dawa.

In the country's judicial system, there are federal and regional criminal courts. There are federal first instance courts, high courts, and the Supreme Court. There are also regional first instance courts and high courts. The Supreme Court maintains appellate authority over all courts.

The law provides legal standing to some preexisting religious and traditional courts and allows federal and regional legislatures to recognize decisions of such courts. By law all parties to a dispute must agree to use a traditional or religious court before such a court may hear a case, and either party can appeal to a regular court at any time. Shari'a (Islamic) courts may hear religious and family cases involving Muslims. In addition other traditional systems of justice, such as Councils of Elders, continued to function. These customary courts resolved disputes for the majority of citizens who lived in rural areas and generally had little access to formal judicial systems.

The federal first instance court's seventh criminal branch, headed by three judges, handled cases involving juvenile offenses and cases of sexual abuse of women and children. There was a large backlog of juvenile cases, and accused children often remained in detention with adults until officials heard their cases. There were also credible reports that domestic violence and rape cases were often significantly delayed and given low priority.

On July 7, the parliament passed the Anti-Terrorism Proclamation to address growing terrorist threats. Several human rights organizations raised concerns over

the law's broad definition of terrorism, severe penalties, broad rules of evidence, and discretionary powers afforded police and security forces.

Criminal matters related to the military are handled by military tribunals. Military tribunals may not try civilians except in cases of national security. The military justice system lacked adequately trained staff to handle a growing caseload.

On November 10, the Federal Supreme Court sentenced Judge Girma Tiku, former president of the First Instance Court for Urban Affairs of Lideta subcity, Addis Ababa, to seven years' imprisonment and a fine of 1,000 birr (\$80) on corruption charges.

There were no developments in the two 2008 MOJ corruption cases against judges.

Trial Procedures.—According to the law, accused persons have the right to a fair public trial by a court of law within a “reasonable time,” a presumption of innocence, the right to be represented by legal counsel of their choice, and the right to appeal. However, in contrast with previous years and in limited cases, closed proceedings took place, and at times authorities allowed detainees little or no contact with legal counsel. The court system does not practice trial by juries. In principle those charged have a presumption of innocence until proven guilty.

Judicial inefficiency, lengthy trial delays, and lack of qualified staff often resulted in serious delays in trial proceedings. The Federal High Court remained open for a month and a half during its regular recess period in August and September to try to reduce the backlog of cases. The Public Defender's Office provides legal counsel to indigent defendants, although its scope and quality of service remained limited due to the shortage of attorneys. Although the law explicitly stipulates that persons charged with corruption are to be shown the evidence against them prior to their trials, several credible sources reported that authorities routinely denied defense counsel pretrial access to such evidence. The government did not establish an execution date for the 19 former Derg officials sentenced to death in 2006 for crimes of genocide, treason, and murder. All remained on death row at year's end, except Colonel Mengistu, who was in exile in Zimbabwe. According to a May government report, religious leaders requested that the government reduce the sentences of former Derg officials. The government had not responded at year's end.

Political Prisoners and Detainees.—Domestic and international NGOs estimated there were several hundred political prisoners and detainees. There were numerous credible reports of unlawful detention of opposition candidates and their supporters.

In September several opposition party leaders reported an intensification of arrests of opposition supporters, especially in the Oromiya and Amhara regions. Opposition parties published lists of members and supporters arrested in the past three months, including more than 360 in the Oromiya region and 230 in the Amhara region.

On July 4, Nimona Tuffa, a student at Hayume Medical College in Ambo and an opposition OPC member, was picked up by Oromiya Regional Security officials dressed in civilian clothes in Guder town. Nimona reported that security officials, including Head of Security of West Shoa Zone Tesfaye Sime, beat him, first in a nearby forest and later at the Ambo Oromo People's Democratic Organization (part of the EPRDF coalition) office, where they pressured him to sign a statement admitting he was a member of the OLF. He eventually signed. When released, Nimona was hospitalized for severe nerve-ending damage, hearing damage, and back injuries. The case was raised with the government, but no action had been taken at year's end.

In November 2008 Lema Merga, Secretary General of OPC in Southwest Shoa zone (Oromiya Region, central Ethiopia), reported he was picked up by local security officials from Wolisso town without a warrant and transported 54 miles) to Sebeta town, where he was detained. He was released on November 21 without ever appearing in court.

In mid-October 2008 approximately 20 persons, including prominent Oromo Federalist Democratic Movement (OFDM) member Makonnin Dheressa, were arrested and placed under the custody of the Federal Army at the Army Camp in Dembe Dollo. All were released before year's end.

In late October/early November 2008, police, local authorities, and ruling party cadres arrested 16 second-tier leaders from various opposition parties engaged in community outreach or opening new offices throughout the country. On August 12, one of the defendants was found not guilty, and the remaining 15 were ordered to present their defenses. Their cases remained pending at year's end. For example, OFDM secretary general Bekele Jirata was charged with recruiting and organizing OLF members, promoting OLF terrorist activities, and financially supporting the

OLF. Bekele Jirata was released on bail on February 4, but his case was pending at the end of the year.

There was no development in the March 2008 arrest of opposition CUD supporter Chaka Robi. He remained in police custody at year's end. No charges were known to have been filed.

Popular singer Tewodros Kassahun (known as Teddy Afro) appealed his 2006 manslaughter conviction, and the court reduced his sentence from six to two years. He was released from prison on August 13. Some of Tewodros' songs were critical of the government.

Opposition UDJ party president Birtukan Mideksa, whose pardon was revoked and life sentence reinstated in December 2008, remained in prison throughout the year. She was held in solitary confinement until June, despite a court ruling that indicated it was a violation of her constitutional rights. She was also denied access to visitors except for a few close family members, despite a court order granting visitor access without restrictions. There were credible reports that Birtukan's mental health deteriorated significantly during the year.

At year's end several hundred other political detainees, including CUD, ONLF, and OLF members, remained in prison.

In 2007 the government pardoned 71 individuals arrested following demonstrations in 2005. The pardons permitted the defendants' future political participation, but in practice the government continued to limit that right.

Of the 52 individuals arrested in 2006-07 for alleged membership in the insurgent Ethiopian Patriotic Front, 48 were sentenced during the year to one to 15 years' imprisonment, three died while in prison awaiting trial, and one was acquitted.

Civil Judicial Procedures and Remedies.—Civil courts, which provided judicial remedy for alleged wrongs, were generally viewed as independent and impartial. The law provides citizens the right to appeal human rights violations in civil court; however, no such cases were filed during the year.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law requires authorities to obtain judicial warrants to search private property; however, in practice, particularly outside Addis Ababa, police often ignored this law. Opposition party representatives claimed that police sometimes used fraudulent search warrants to enter homes and commit criminal acts, including extorting money. There were reports that members of local militias robbed persons during the year in locations throughout Oromiya.

There continued to be reports of police forcibly entering civilian homes throughout the year.

For example, on April 16, Tirsch kebele (Dejen woreda, Amahara region) and woreda officials searched the house of Waltenegus Abate, vice chairman of the AEUP in that woreda, without a warrant. Although officials accused him of hiding armaments, none were found. Before leaving, local police reportedly beat his seven- and 12-year-old daughters while inquiring about his whereabouts and fired shots into the air. Waltenegus has been in hiding since May. This incident marked the second attack against Waltenegus' family. In November 2008 kebele officials and woreda police reportedly abducted Waltenegus and tied his hands while he was herding cattle, searched his house without a warrant, found an AEUP card, beat him with rifle butts, and threatened to kill him if he did not stop accusing woreda police of torturing persons.

In July 2008 at 6 p.m., reliable reports established that, police, Bahir Dar City Administration, and kebele officials unlawfully searched the house of Yeshe Tekle-Giorgis, resident of kebele 13 of Bahir Dar town, following a disagreement with her landlord. The officials tried to force her to vacate the house, but she told them she could not vacate the house so late in the day. One of the police officers grabbed her and allegedly tried to strangle her with the scarf she was wearing. He then pushed her, and she fell down and fractured her arm. She reported the case, but no action was taken against the police officer who attacked her.

In November 2008, police and local militia reportedly searched the house of Tiringo Mengist without a warrant, a resident of Tirsch kebele (Dejen wereda, Amhara region), and accused her of aiding and abetting bandits. She denied the accusation, and one of the police officers allegedly hit Tiringo with his rifle butt on her side while another police officer repeatedly hit her with a club. She reported the abuse to a local human rights organization. No action was taken against the police officers.

All but three electronic communications facilities are state owned. Political party leaders reported incidents of telephone tapping and other electronic eavesdropping. In May a former employee of ETC, the state-run monopoly telecom and Internet pro-

vider, reported from self-imposed exile that the government had ordered ETC employees to unlawfully record citizens' private telephone conversations.

The government used a widespread system of paid informants to report on the activities of particular individuals.

Security forces continued to detain family members of persons sought for questioning by the government. Kebele officials have been reported to go from house to house demanding that residents attend ruling coalition meetings. Residents are not arrested or harassed if they do not attend party meetings; however, those persons who do not attend party meetings reportedly have difficulty obtaining basic public services from their kebeles. Reliable reports establish that unemployed youth who are not affiliated with the ruling coalition have trouble receiving "support letters" from their kebeles necessary to get jobs, and that unaffiliated poor residents have trouble receiving subsidized wheat or other materials.

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—During the year fighting continued between government forces, including government-backed and -affiliated militia, and the ONLF, an ethnically based, nationalist, insurgent movement operating in the Ogaden area of the Somali region, triggering widespread allegations of human rights abuses by all parties to the conflict. Credible reports of human rights abuses continued, including extrajudicial killings, torture, rape, abductions, and arbitrary arrest by government soldiers. Deliveries of food and medicine were restricted as a result of insecurity, lack of capacity, and military restrictions.

Since it was outlawed in 1994, the ONLF has engaged in low-intensity armed conflict with the government. The regional conflict in Somalia that began in late 2006 spread to the Somali region and, allegedly fueled by support from the Eritrean government, resulted in greatly increased armed activity by the ONLF, whose members share ethnic ties with Somalis. During the year another insurgent group, the United Western Somali Liberation Front (UWSLF), had a limited presence in the region.

Since the military began significant counterinsurgency operations in the Ogaden region in response to the April 2007 slaying of Chinese and domestic oil exploration workers, the government has continued to limit the access of diplomats, NGOs, and journalists to the Somali region, citing serious security concerns. Human rights groups and others asserted that the government denied access to the region to prevent potential critics and observers from monitoring ENDF operations. The government allowed some humanitarian access but restricted the ability to investigate human rights abuses. Reports of human rights violations largely have come from interviews with second-hand sources or alleged victims who have fled the Somali region. NGO personnel have been compelled by ENDF and regular police officials to report ONLF activity and faced beatings and death threats from these entities if they did not comply. Some villagers reported that local authorities threatened to retaliate against anyone who reports ENDF abuses.

Reliable sources reported increasingly violent ONLF attacks on police and military elements during the year. Civilians, international NGOs, and other aid organizations operating in the region reported that both the ENDF and the ONLF were responsible for abuses and harsh techniques used to intimidate the civilian population. Development workers reported being frequently stopped for questioning by the ONLF. However, ONLF fighters were reported to be generally supportive of development efforts and encouraged development workers to continue their work. The UWSLF, in contrast, had a more hostile attitude towards development workers.

Killings.—There were several instances of killings in internal conflicts.

In February government and rebel spokesmen reported that at least 45 persons were killed in a clash between the ONLF and the ENDF near the towns of Fik and Degehebur.

Credible sources indicated that the Special Police Forces were responsible for extrajudicial killings. In early July Special Police Forces and ONLF fighters clashed between Degehabur and Kabsidakas, and between 40 and 65 Special Police members were killed. The Special Police reportedly killed two suspected ONLF members at Degehabur town market.

In early June ONLF fighters attacked an Ethiopian Roads Authority team, burning five vehicles and kidnapping 18 workers, of whom 13 were later released; there was no information available on the remaining five. In a clash on November 10, the ONLF reported that 985 government soldiers were killed. The government denied the reports.

There were no developments in the March 2008 arrests of eight men suspected of involvement in the 2007 ONLF attack on a Chinese-run oil facility in the Somali region that killed 65 civilians and nine Chinese nationals.

In November 2008 police forces attempted to force villagers from Laare and Puldeng villages (Gambella region) to move to a new area. When villagers refused, violence ensued, and police reportedly killed nine civilians and wounded 23. Two police officers were killed and six others were wounded. Police also reportedly set fire to homes and killed numerous livestock. Gambella Deputy Police Commissioner Mulugeta Ruot Kuon gave a different account. According to him, police responded to a clash between two Nuer groups and tried to facilitate a negotiation. One group started beating the police with sticks and shot one officer, triggering a gunfight that killed one police officer and four civilians and wounded 27. The conflict spread to eight kebeles, and federal police and the ENDF came to the region to calm the fighting. Traditional conflict resolution approaches facilitated by elders were used to resolve the conflict. At year's end the government had not responded to ONLF accusations that the ENDF killed 48 civilians in Mooyaha village and six civilians in Galashe in the Ogaden region in December 2008.

Abductions.—In September 2008 an unknown armed group kidnapped two foreign staff members of the French NGO Medecins du Monde near Shilabo town in the Somali region. On August 1, the two staff members were released unharmed in Mogadishu.

Physical Abuse, Punishment, and Torture.—International rights groups and NGOs reported that alleged unlawful killings, torture, rape, abductions, and arbitrary arrests continued in the conflict zone in the Ogaden. While there were numerous reports of human rights violations in the conflict-affected areas, there were no successful attempts at substantiating the reports due to lack of access to the region.

There were continued reports of violence against women. For example, one ethnic Somali woman reported that she was gang-raped by five Ethiopian soldiers in January near the town of Fik and that Ethiopian troops routinely raped young women in her village.

Child Soldiers.—During the year the Somali Regional Security and Administration Office increased recruitment of Special Police Forces and local militias in conflict zones. Both government forces and insurgent groups in Degehabur and Fik zones reportedly recruited children as young as 14.

Other Conflict-Related Abuses.—During the year the government loosened restrictions on the delivery of food aid from donor organizations into the five zones of the Somali region in which military activity was the most intense. Approximately 83 percent of food aid reached beneficiaries, a significant improvement from the previous year. Starting in January a group of international NGOs and donors attempted to work with the Somali Regional Government to establish standard operating procedures to ensure access to the region, but no agreement had been reached by year's end. NGOs operating in the region depended on permission from local militia and the ENDF to deliver humanitarian assistance. Commercial traffic into these zones somewhat increased.

The government restricted access of NGO workers and journalists to affected areas. International journalists who entered the Somali region without permission of the government were arrested or obliged to leave the country. The government continued to ban the ICRC from the region, alleging it cooperated with the ONLF. During the year, some humanitarian groups reported roadblocks manned by insurgent groups who occasionally briefly detained them. These same humanitarian groups reportedly were interrogated by the ENDF on their encounters at the roadblocks with the insurgents.

In January 2008 the ENDF placed Medecins Sans Frontieres-Holland (MSF-NL) staff members under house arrest in Warder for allegedly providing medical support to the ONLF and confiscated MSF-CH property and vehicle keys in Kebri Dehar, limiting its staff members' movement to the town for three weeks. There was no judicial process or charges filed in the cases. MSF-NL had partial access to the Ogaden region during the year.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—While the constitution and law provide for freedom of speech and press, the government did not respect these rights in practice. The government continued to arrest, harass, and prosecute journalists, publishers, and editors. The government continued to control all broadcast media except three private FM radio stations. Private sector and government journalists routinely practiced self-censorship.

Government-controlled media mostly reflected the views of the government and the ruling EPRDF coalition. However, live radio and television broadcasts occasionally included televised parliamentary debates and broadcast the views of opposition parliamentarians, as did government newspapers.

Although some new, small-circulation newspapers were published during the year, the number of private newspapers remained low. Approximately 20 private Amharic-language and English-language newspapers with political and business focuses were published, with a combined weekly circulation of more than 150,000.

The government operated the sole television station and tightly controlled news broadcasts. The broadcasting law prohibits political and religious organizations or foreigners from owning broadcast stations.

Foreign journalists and local stringers working for foreign publications at times published articles critical of the government but were subjected to government pressure to self-censor. During the year some reporters for foreign media were subjected to intimidation and harassment or threatened with expulsion from the country for publishing articles critical of the government.

During the year the government convicted and sentenced journalists for articles and reports in their publications. Journalists were intimidated, harassed, arrested, and detained on charges of defamation and threatening public order.

On April 16, the Government Communications Affairs Office summoned three VOA reporters—Peter Heinlein, Meleskachew Amha, and Eskinder Firew—and suspended the licenses of Meleskachew and Eskinder for three days for reasons never disclosed.

On July 9, unidentified individuals beat Addis Neger journalist Abraham Begizew, who was attempting to report on a disagreement within the leadership of the Ethiopian Orthodox Church (EOC).

On August 24, Asrat Wedajo, former editor of the now-defunct weekly Seife Nebelbal, was convicted in connection with a 2004 story alleging human rights violations against ethnic Oromos. The Federal High Court sentenced him to one year's imprisonment based on provisions of the Press Proclamation of 1992, notwithstanding that a new media law had superseded it in December 2008.

In February 2008 police arrested Al-Quds publisher Maria Kadi Abafita, Al-Quds editor in chief Ezeddin Mohammed, and Salafia publisher and editor in chief Sheikh Ibrahim Mohammed Ali following their publication of articles critical of a Ministry of Education directive on religious worship in schools. On July 27, the Federal High Court acquitted Maria Kadi Abafita, fined Ezeddin Mohammed 10,000 birr (\$800), and sentenced Ibrahim Mohammed to one year's imprisonment.

There were no developments in the March 2008 case of Dawit Kebede, editor in chief of the weekly Awramba Times, who was accused by the National Electoral Board (NEB) of violating the electoral regulations by posting an advertisement for his newspaper on a poster promoting EPRDF candidates for local elections.

There were no developments in the May 2008 case of Alemayehu Mahtemework and three staff members of the private Amharic monthly entertainment magazine Enku. The government accused them of publishing "stirring articles that could incite people" and held them for five days before release. Alemayehu was also charged with threatening public order. The magazine continued operating during the year.

In July the Federal High Court acquitted Addis Neger editor in chief Mesfin Negash of the defamation charges against him. In July 2008 the EOC had sued Mesfin for defamation in connection with the newspaper's reporting on an ongoing EOC embezzlement case. There were no developments in the August 2008 cases of Dawit Kebede and Wosseneged Gebrekidan, charged with inciting the public through false rumors for publishing articles about the Ginbot Seven, an opposition political group advocating change in the government by any means. Both were released on bail.

In August 2008 two police officers, one from Addis Ababa and the other from Gondar, arrested Amare Aregawi, editor in chief of the Amharic- and English-language newspaper The Reporter, at his office. The arrest was in connection with a private libel suit brought by the Gondar-based, ruling-party-owned Dashen Brewery in response to a July 20 Reporter story on a labor dispute at the brewery. Amare appeared in court on September 1 but learned there were no charges against him, and the bail money was returned to him. The article's author, Teshome Niku, appeared in court on July 30 and was released on bail of 300 birr (\$29) on August 1. Following his release, Teshome reportedly received anonymous, threatening telephone calls and was beaten and intimidated by unidentified persons in September 2008. In January a private newspaper reported that Teshome fled to Kenya. The Dashen Brewery manager filed defamation charges against Amare on August 13. The Federal High Court 10th Criminal Bench ordered Amare to defend his case. The case continued at year's end.

In October 2008 Amare Aregawi was attacked by civilian assailants in front of his son's school. Three individuals who admitted attacking Amare appeared at the Federal High Court and testified that they were hired to attack him. Amare reported he suspected he was attacked by agents of the government or those acting

with government support who were threatened by his paper's reporting on corruption. The trial continued at year's end.

Several journalists remained in self-imposed exile, including journalists detained following the 2005 elections but released in 2007.

On September 29, Ethiopian-citizen Washington Post reporter (based in Addis Ababa) Kassahun Addis fled the country due to a credible fear of persecution.

In July 2008 the parliament passed the Mass Media and Freedom of Information Proclamation, published in the official *Negarit Gazette* in December 2008. The law prohibits pretrial detention of journalists and censorship of private media, and it recognizes the right of journalists to form professional associations. However, the law allows only incorporated entities to publish print media, requires all previously licensed press to reregister, bars foreign and crossmedia ownership, grants the government unlimited rights to prosecute the media, criminalizes defamation of public officials, increases defamation fines to 100,000 birr (\$8,000), establishes "national security" as grounds for impounding materials prior to publication, provides government information officials exclusive discretion to withhold "sensitive" information without judicial review, and maintains the Communication Affairs Office's (formerly Ministry of Information—MOI) absolute authority to regulate the media.

The MOI was dissolved in October 2008. The new Communication Affairs Office reports directly to the prime minister. The Ethiopian Broadcasting Authority (EBA) took over responsibility for press registration and oversight from the dissolved MOI. All existing newspapers and magazines were required to reregister with the EBA during the year.

In February the EBA issued a regulation barring newspaper and magazine publishers and those owning more than a 2 percent stake in a media house from holding positions of editor or deputy editor in the respective media houses.

In June the EBA ordered the private radio station Sheger-FM (102.1) to cease all rebroadcasts of VOA programming. Sheger had been broadcasting some VOA programs daily, mostly music, through a contractual agreement.

Regional governments censored the media during the year by prohibiting NGOs and health centers from providing information to, or allowing photography by, foreigners or journalists about malnutrition caused by the drought.

The government used its licensing authority to indirectly censor the media. On June 8, the Federal High Court denied an appeal and ruled that Sisay Agena, Serkalem Fasil, and Eskinder Nega could not be granted press licenses due to a 2005 court ruling that called for the dissolution of their former publishing companies. While the defendants had been acquitted of all charges and their former companies remained defunct, the High Court found that granting licenses to these individuals would be tantamount to circumventing the 2005 High Court ruling ordering the dissolution of the former companies.

On February 6, the Federal High Court dropped the monetary fines levied against the same three publishers in July 2008 for a combined amount of 300,000 birr (\$24,000) in connection with their papers' coverage of the 2005 elections. They appeared in court in December 2008 and delivered a written petition citing pardon law 395/2004, article 231/2, which stipulates that pardons granted to persons automatically pertain to monetary penalties against them.

The government owned the only newspaper printing press and used its monopoly position, *inter alia*, to regularly increase costs to publishers.

In June 2008 Ayele Chamisso, chairman of the Coalition for Unity and Democracy Party, filed charges against three private newspapers: Addis Neger, Awramba Times, and the now-defunct Soressa. Ayele claimed that the papers used his party's name for other groups. The editor of Awramba Times, Dawit Kebede, appeared in court in November 2008 on defamation charges and was released on bail of 2,000 birr (\$160). He appeared in court again in December 2008. In December Ayele Chamisso asked the court to drop the charges against Awramba Times. The cases against the other two newspapers were pending at year's end.

In December Addis Neger, an Addis Ababa-based weekly often critical of government policies, ceased publishing following months of government harassment. Three staff members of Addis Neger—Abiy Tekle Mariam, Mesfin Negash, and Tamirat Negera—fled the country for fear of arrest.

Internet Freedom.—The government restricted access to the Internet and blocked opposition Web sites, including the sites of the OLF, ONLF, Ginbot Seven, and several news blogs and sites run by opposition diaspora groups, such as Nazret, Ethiopian Review, CyberEthiopia, Quatero Amharic Magazine, Tensae Ethiopia, and the Ethiopian Media Forum.

In early March the government lifted an Internet blockade on all Ethiopian news Web sites and opposition Web sites. However, some Web sites, including nazret.com, reported being blocked again soon after.

In August 2008 a release by the NGO Committee to Protect Journalists (CPJ) stated that, according to reliable sources, its servers were inaccessible to users in the country and that e-mails from the country were not coming through to the CPJ. These reports emerged at the same time the CPJ was investigating the detention of The Reporter editor Amare Aregawi. The Reporter also alleged blocking of its Web site for four days during this time. CPJ's Web site was also inaccessible at other times during the year.

As of March the ETC reported 42,707 Internet subscribers. Citizens in urban areas had ready access to Internet cafes; however, rural access remained extremely limited. According to International Telecommunication Union statistics for 2008, approximately 0.45 percent of the country's inhabitants used the Internet. Mobile telephone text messaging, which restarted in September 2007, remained available. The number of mobile telephone subscribers reached 3.3 million.

Academic Freedom and Cultural Events.—The government restricted academic freedom during the year. Authorities did not permit teachers at any level to deviate from official lesson plans and actively discouraged political activity and association of any kind on university campuses. Frequent reports continued of uniformed and plainclothes police officers on and around university and high school campuses. College students were reportedly pressured to pledge allegiance to the EPRDF to secure enrollment in universities or postgraduation government jobs. Non-EPRDF members were also reportedly denied teachers' benefits, transferred to undesirable posts, and restricted in promotions. There was a lack of transparency in academic staffing decisions, with numerous complaints from individuals in the academic community of bias based on party membership, ethnicity, or religion. Speech, expression, and assembly were frequently restricted on university and high school campuses.

Several elementary and high school teachers from various parts of the country complained that the government favored teachers who were members of the EPRDF in job assignment, promotion, and professional development opportunities. Teachers who were members of, or perceived to support, opposition parties—particularly in Oromiya, Tigray, Amhara, and the Southern region—reported being harassed and threatened by local officials with losing their jobs if they continued such support.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The constitution and law provide for freedom of assembly; however, the government restricted this right. Organizers of large public meetings or demonstrations must notify the government 48 hours in advance and obtain a permit. The government sometimes issued permits to political parties to assemble in halls, but there were several complaints that the government threatened hall owners not to rent out halls to opposition political parties, effectively preventing them from doing so.

Opposition political parties frequently reported during the year that their supporters were targets of frequent and systematic harassment and violence by government security forces. Regional governments, including the Addis Ababa regional administration, were reluctant to grant permits or provide security for large meetings.

On August 16, the UDJ attempted to hold a town hall meeting in Adama after receiving permission from local authorities. Prior to the meeting, local authorities prevented the UDJ from displaying posters and announcing the meeting to the public. The meeting was disrupted by several shouting participants who, according to the UDJ, were an organized group of EPRDF supporters. Security guards did not attempt to stop the disruption. The meeting was adjourned 15 minutes after it began. The minister of communications announced that it was an illegal act, and the government would launch an investigation; however, no one was held accountable by year's end.

On August 30, the UDJ successfully held a town hall meeting in Awasa, although the local administration forbade the UDJ to publicize the event in advance.

Street demonstrations have been barred since 2005, but on April 16, the UDJ held a peaceful public demonstration in Addis Ababa to protest the rejailling of its chairperson, Birtukan Mideksa. Municipal authorities authorized the demonstration, and local and federal police coordinated security.

There were few attacks by police and militia against demonstrators, since not many public assembly permits were issued and illegal demonstrations were infrequent.

There were no developments in the 2008 beatings of Dejen town residents who were protesting local officials' stalling of the residents' application for use of nearby farmland.

There were no developments in the 2007 police shooting of two demonstrators in Damot Weyde District.

Freedom of Association.—Although the law provides for freedom of association and the right to engage in unrestricted peaceful political activity, the government in

practice limited this right. Opposition parties received no government subsidies for their political activities despite laws providing for them.

In accordance with the Charities and Societies Proclamation (CSO law), adopted on February 13, civil society organizations (CSOs) are required to reregister by February 2010 with the recently established Charities and Societies Agency (CSA), under the authority of the MOJ. Most observers questioned the newly established CSA's capacity to register more than 3,000 CSOs by February 2010.

The Ministry of Foreign Affairs (MFA) screens applications for international NGOs and submits a recommendation to the MOJ whether to approve or deny registration.

The Ethiopian Teachers Association (ETA) has operated since 1967, but in 1993 after the EPRDF took power, an alternate, pro-EPRDF ETA was established. In 1993 the original ETA and the government-supported ETA began a prolonged legal battle over the organization's name and property rights. In 2008 the Court of Cassation ruled against the original ETA and awarded its name and property to the pro-EPRDF ETA (see section 7.a.). In August 2008 the original ETA applied to the MOJ for registration as the National Teachers Association, but was denied registration.

c. Freedom of Religion.—The constitution and law provide for freedom of religion, and the government generally respected this right in practice; however, local authorities and members of society occasionally infringed on this right. The EOC and Sufi Islam are the dominant religions; 80 percent of the population adhered to one or the other faith. Religious organizations, like NGOs, must renew their registration with the MOJ every three years. The EOC and the Ethiopian Islamic Affairs Supreme Council (EIASC) did not reregister and did not face government sanctions, prompting some religious groups to complain of a double standard.

In accordance with the CSO law, religious organizations that undertake development activities must register their development wings separately as NGOs and follow the strict new guidelines of the CSO law.

Various religious groups seek the return of real property confiscated from them by the government between 1977 and 1991. In Addis Ababa and Oromiya, buildings that had been registered under federal statutes have been returned; however, structures registered under regional statutes were not returned.

Unlike previous years there were no reports of minority religious groups reporting discrimination in the allocation of government land for religious sites. Authorities continued to ban Waka-Feta, a traditional animist Oromo religious group, because it suspected that the group's leaders had close links to the OLF. Protestant groups occasionally accused local officials of discriminating against them when they sought land for churches and cemeteries. Evangelical leaders charged that because authorities perceived them as "newcomers," they were at a disadvantage compared with the EOC and the EIASC in the allocation of land.

On June 30, police in Dessie town (northeast Ethiopia) shot and killed Mesfin Worku, Dawit Defaru, and Bizuye Hussein, who were among a crowd demonstrating after being forced to stop unlawful construction of a church at a site that Muslims claimed was their burial ground. Several were injured in the ensuing violence. On July 7, the head of the Dessie EOC Diocese Aba Gebreselassie was arrested on charges of inciting violence. He was released on bail after seven days, and no future court appointment had been scheduled. No one was charged in connection with the three deaths. Orthodox and Muslim leaders in Dessie blamed the government for its nonresponsiveness in resolving the land dispute and for conveying conflicting messages to each side.

In December 2008 police opened fire at a public gathering near a church in the southern city of Arba-Minch, wounding three individuals. Police were reportedly attempting to disperse a crowd following a disagreement between Orthodox priests. No arrests were made by year's end.

Societal Abuses and Discrimination.—In most regions Orthodox Christians and Muslims generally respected each other's religious observances, and there was tolerance for intermarriage and conversion in certain areas. However, there were some highly publicized religious conflicts that heightened tensions and precipitated government intervention. Some victims in these and other instances of religious conflict sought protection from local authorities.

On January 8-10, a series of localized religious clashes in Dire Dawa in the eastern part of the country left one dead and 20 injured. In one neighborhood Muslim youth, reportedly angry about Israeli attacks on Gaza, threw stones at Christian youth who were singing religious songs in the street during the EOC Christmas holiday. Christian youth retaliated by throwing stones at Muslims until police intervened. These violent clashes spread from one neighborhood to another.

The EIASC continued to express concern over the allegedly increasing influence of Saudi-funded entities within the Muslim community, which the EIASC blamed for exacerbating tensions between Christians and Muslims.

On February 16-17 and April 23-24, the MFA held forums in each regional state, which included representatives from local government, security bureaus, and police commissioners, to build interreligious understanding and resolve sectarian conflicts.

The Jewish community numbered approximately 2,000, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—Although the law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, the government restricted some of these rights in practice.

Throughout the year the government severely restricted the movement of persons into and within the Ogaden area of the Somali region, arguing that its counterinsurgency operation against the ONLF posed a security threat (see section 1.g.).

The law prohibits forced exile, and the government did not employ it. A steadily increasing number of citizens sought political asylum or remained abroad in self-imposed exile, including prominent human rights advocates.

In contrast to the previous year, the ICRC did not assist in the repatriation of any Ethiopians from Eritrea or Eritreans from Ethiopia because the government of Ethiopia canceled the only repatriation operation scheduled during the year. In principle, most Eritreans living in Ethiopia and Ethiopians of Eritrean origin who registered with the government in 2009 received identity cards and six-month renewable residence permits that allowed them to gain access to hospitals and other public services.

Internally Displaced Persons (IDPs).—The conflict between government and insurgent forces in the Ogaden area of the Somali region resulted in the displacement of thousands of persons (see section 1.g.). During the year violent clashes between different clans, often reflecting competition for scarce resources or disputes over territorial boundaries, caused these displacements and resulted in an estimated 248,700 IDPs, according to the UN High Commission for Refugees (UNHCR), including an estimated 24,000 from the Gambella region, 83,000 from Oromiya, and 107,000 from the Somali region. In February more than 160,000 persons were displaced by conflict over land between the Garre of the Somali region and the Boran of the Oromiya region.

According to a Gambella Regional Government report, the 24,000 IDPs in the Gambella region were from Lare, Itang, and Jor woredas. Reasons for displacement included an attack by Murle people from across the southern Sudanese border and infighting among the Nuer tribe.

The Federal Disaster Risk Management and Food Security Sector (DRMFSS), under the authority of the Ministry of Agriculture and Rural Development, is the main government actor responsible for the emergency needs of IDPs, in collaboration with the Ministry of Health, Agriculture, and Water Resources. However, there is no coordination mechanism and no government policy dedicated particularly to IDPs and issues related to them. The DRMFSS mandate includes only assistance and not protection, return, resettlement, or finding durable solutions, and IDP issues are dealt with mostly on an ad hoc basis.

In July Menit Goldia and Menit Shasha woreda officials forced an estimated 5,500 Bench Maji persons from their homes for unknown reasons. Many fled to Addis and appealed to several government officials. Some also filed a complaint with the Institution of the Ombudsman. Following a joint investigation by regional and zonal government authorities, a decision was made to allow those who settled in Menit Goldia and Menit Shasha woredas prior to August 1997 to resettle in their respective woredas. At year's end woreda officials continued discussions as to the process of resettlement. Those who arrived after August 1997 were sent back to the Amhara region. Vehicles were provided by the Amhara Regional Government, but most of the victims chose not to go because they considered themselves to be from the Welkite and Gojeb areas in the Southern Nations, Nationalities, and People's (SNNP) region.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 Convention relating to the Status of Refugees, its 1967 Protocol, and the 1969 Organization of African Unity Convention Governing the Specific Aspects of the Refugee Problem in Africa. The government has established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their

lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion, and it granted refugee status and asylum. The government generally cooperated with the UNHCR and other humanitarian organizations in assisting refugees and returning citizens. There were continued anecdotal reports that Ethiopian asylum seekers deported from Yemen were detained upon return to Ethiopia.

In April the government, in cooperation with the UNHCR, opened a new refugee camp, Bokolmayo, northwest of the town of Dolo Odo near the border with Kenya and Somalia, to accommodate new Somali refugees. The capacity of this camp was 20,000 refugees, and it held more than 18,000 at year's end. Registration of new arrivals in Bokolmayo camp averaged 1,700 per month. The UNHCR and the government's Administration for Refugee/Returnee Affairs also initiated discussions about opening a new camp for Somali refugees, to be called Melkadidi, located approximately 36 miles from Dolo Odo (and 12 miles from Bokolmayo) and with a capacity of 20,000 refugees.

As in the previous year, an average of 800 to 1,000 new Eritrean refugees arrived monthly, while approximately 400 to 600 Eritrean refugees departed monthly on secondary migration through Egypt and Sudan to go to Europe and other final destinations. The UNHCR assisted in the reception and transportation back to My Ayni of more than 150 Eritrean refugees who had been detained in Egypt and deported by the Egyptian authorities.

The government required all refugees to remain in designated camps, most of which were located near the borders with Eritrea, Somalia, and Sudan, unless granted permission to live elsewhere in the country. Such permission was given primarily to attend higher education institutions, undergo medical treatment, or avoid security threats at the camps. During the year the government expanded its policy of providing greater freedom of movement to some Eritrean refugees with family members living outside of the camps. More than 600 urban refugees were registered with the UNHCR and the government, most of them from Somalia, Eritrea, and the Democratic Republic of Congo.

While some conflict continued between ethnic groups in the Gambella region, this did not directly interfere with the UNHCR's refugee protection activities.

The government, in cooperation with the UNHCR, continued to provide temporary protection to individuals from Sudan, Eritrea, and Somalia who may not qualify as refugees under the 1951 convention and the 1967 protocol.

During the year the UNHCR processed 764 refugees who departed for resettlement abroad. In contrast to last year, interest in Sudanese repatriation has waned, and the UNHCR and the government assisted the safe, voluntary return of only 942 Sudanese refugees to their homes during the year.

As in 2008, there were no allegations of government cooperation with the government of Sudan in the forcible repatriation of Ethiopian refugees.

On December 21, police entered Kebrebeya refugee camp and arrested eight refugees. They turned the refugees over to the military who transported the individuals to the village of Gilo, more than 18 miles away from the camp. The military shot three of those arrested, including one minor. The government told the UNHCR that the individuals were IDPs, not refugees. When shown proof from the UNHCR database that the individuals were indeed registered refugees, the authorities then claimed they were Ethiopians posing as refugees. The UNHCR requested an investigation into the killings.

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

The constitution and law provide citizens the right to change their government peacefully. There were no elections scheduled or conducted during the reporting period. In practice the ruling EPRDF and its allies dominated the government. In local and by-elections held in 2008, virtually all of the more than three million seats open at the federal and local levels were taken unopposed by the ruling EPRDF and allied parties. Prior to the vote, ruling party agents and supporters engaged in coercive tactics and manipulation of the electoral process, including intimidation of opposition candidates and supporters during the period prior to the vote. Citing these obstacles, two leading opposition parties withdrew from the elections shortly beforehand.

Elections and Political Participation.—The constitution provides citizens the right to change their government peacefully and to freely join a political organization of their choice; however, in practice these rights were restricted through bureaucratic obstacles and government and ruling party intimidation and arrests.

The April 2008 local and by-elections were the first nationwide elections since the historic 2005 national elections, which ended in heavy postelection violence and

large-scale arrests. According to domestic and international observers, the 2005 elections, in which the EPRDF coalition won 372 of 547 seats, generally reflected the will of the people and were an important step forward in the country's democratization efforts. However, irregularities in 2005 marred polling in many areas. For instance, observers reported vote count fraud, improper handling of ballot boxes, and barring of party agents from polling stations and ballot counts. Observers also reported killings, disappearances, voter intimidation and harassment, unlawful detentions of opposition party supporters, and bribery. Opposition parties accused the NEB of ruling-party bias and of failing to address the complaints it received. Following an ad hoc complaints resolution process, the NEB decided to hold new elections in 31 constituencies in 2005; however, opposition parties boycotted due to perceived flaws in the review process.

Opposition parties made an unexpectedly strong showing in the 2005 elections, increasing their parliamentary representation from 12 to 172 seats and earning 137 of 138 Addis Ababa City Council seats. Despite this, some opposition members refused to take their seats and instead boycotted. Violent antigovernment protests then erupted in November 2005 and led to a government crackdown including arrests of several dozen opposition leaders, journalists, and civil society group members, as well as between 30,000 and 50,000 demonstrators. Most prisoners were released in three months, but many prominent individuals spent almost two years in prison, with an unknown number of individuals still in custody at year's end. Military intervention also led to widespread abuses such as arbitrary detention and killings.

In the 2008 local and by-elections polling went smoothly and peacefully, and there were no postelection mass arrests or violence, unlike in 2005. However, the pre-election weeks and months were marred by innumerable and credible reports of harassment, intimidation, arrests, and killings of opposition party candidates and their supporters, and incomplete compliance by the NEB with the Electoral Law, prompting some of the major opposition parties such as the United Ethiopian Democratic Forces (UEDF) and OFDM to boycott the election. Ruling party, regional, federal, and NEB officials mostly denied these incidents and, with few exceptions, neither rigorously investigated such allegations nor otherwise sought to hold perpetrators responsible.

This climate, along with a dearth of opposition candidates, contributed to starkly different election results from those in 2005. Of the 3.6 million local and by-election seats open to be contested, opposition parties won three: a federal parliament seat, an Addis Ababa city council seat, and a Gambella town council seat. According to the NEB, the EPRDF coalition took more than 3.5 million seats with the remainder going to noncoalition but EPRDF-allied parties. For instance, the EPRDF took 38 of 39 contested federal parliament seats and 137 of 138 Addis city council seats; this latter result was an exact reversal of 2005. Prior to the 2008 local elections, the government significantly increased the number of kebele council members. There can now be up to 300 council members for urban kebeles and up to 100 for rural kebeles.

The NEB reported a 93 percent voter turnout in the 2008 elections, approximately 24.5 million of 26.3 million registered voters. However, the government refused to allow foreign election observers and offered no basis for its reported turnout.

Opposition parties fielded very few candidates in some regions. This was due in part to widespread harassment of opposition candidates and supporters as well as the delayed reopening of party offices in 2007, following forced closures after the 2005 elections. Together, opposition parties were able to register only an estimated 16,000 candidates countrywide. For example, in one area of Oromiya where the opposition won overwhelmingly in 2005, there were 60,955 EPRDF candidates running against seven opposition candidates. Given a lack of capacity, some opposition groups chose not to contest town seats and instead focused on district and zonal seats.

In April 2008 the UEDF, a coalition of opposition parties from SNNP and Oromiya regions, announced its withdrawal from the elections. This followed their delivery to the NEB of a list of seven preconditions for their electoral participation because of incomplete implementation of the Electoral Law, including proper elections of poll observers, an end to candidate harassment, and registration of all rejected UEDF candidates.

The 2007 Electoral Law requires each polling station to have five nonpartisan observers elected from the community, or approximately 200,000 election observers for the more than 42,000 polling stations. There were, however, widespread reports that many of these poll observers were instead appointed directly by the NEB from EPRDF affiliates. The Electoral Law also allows NGOs to conduct either voter education or election observation, but not both. While the Electoral Law stipulates that election observers shall monitor the electoral process, the NEB finally released its

election observation guidelines in February 2008, three months after voter registration commenced and weeks after the conclusion of candidate registration. This came too late for some NGO monitors, and others did not even request permission to observe, due to a lack of confidence in the process. Still others, such as EHRCO, simply did not receive an NEB response. In the end, the NEB approved 11 domestic NGOs as observers.

During the 2008 elections, there were reports of closed voter registration stations in pro-opposition rural areas and of prospective voters advised to return the following day after walking two or more miles. Opposition candidates also reported registration office closures and fraudulent dropping of opposition names from NEB candidate registration lists.

The EPRDF, its affiliates, and its supporters controlled 408 seats in the 547-member House of People's Representatives and all seats in the 112-member House of Federation, the upper house of parliament, whose members were appointed by regional governments and by the federal government.

The government policy of ethnic federalism led to the creation of individual constituencies to ensure representation of all major ethnic groups in the House of People's Representatives. Nevertheless, small ethnic groups lacked representation in the legislature. There were 23 nationality groups in six regional states that did not have a sufficient population to qualify for constituency seats; however, in the 2005 elections, individuals from these nationality groups competed for 23 special seats in the House of People's Representatives. Additionally, these 23 nationality groups have one seat each in the unelected, largely ceremonial House of Federation.

During the year the UEDF, UDJ, OFDM, Arena Tigray for Democracy and Sovereignty, and OPC reported arrests of members and the forced closure of political party offices throughout the country and intimidation of landlords to force them to evict the political groups (see sections 1.d. and 3).

During the year some opposition political leaders, including federal and regional members of parliament (MPs), were discouraged or blocked from traveling to their constituencies to meet with supporters, although others visited constituents without incident.

Credible sources report that on February 17, militiamen and plainclothes police officers followed and harassed federal MP and OPC member Major Mekonnen Geleta while he was visiting his constituency in Guduru woreda. Militiamen reportedly told him that he had no reason to visit the area and threatened to kill him if he returned. On February 18, Mekonnen left his constituency and took a bus to Shambu town. Mekonnen reported that two militiamen, Shewle Shibeshi and Bedada Shibeshi, followed him and rode the same bus. In Shambu town, Mekonnen was followed by several police and militiamen.

There were 116 women in the House of People's Representatives, two female judges on the 11-seat Supreme Court, and four women among the 35 state ministers.

Membership in the EPRDF conferred advantages upon its members; the party directly owns many businesses and was broadly perceived to award jobs and business contracts to loyal supporters. There were frequent credible reports that local authorities told opposition members to renounce their party membership and become EPRDF members if they wanted access to subsidized seeds and fertilizer, food relief, civil service job assignment, promotion, or retention, student university assignment and postgraduate employment, and other benefits controlled by the government.

During the year there were credible reports that teachers and other government workers had their employment terminated if they belonged to opposition political parties. According to opposition groups OFDM and the Oromo National Congress, the Oromiya Regional Government continued to dismiss opposition party members—particularly teachers—from their jobs.

There were many credible reports of ruling-party or government harassment intended to prevent individuals from joining opposition parties, registering their candidacies for elected office, or renting property. In October and November, there were several credible reports that the ruling EPRDF used humanitarian assistance to gain support for the party by denying opposition political party supporters access to humanitarian assistance, including relief food, public services, and microfinance loans.

There were numerous reports of intimidation, harassment, abuse, and detention of opposition candidates and their supporters. For example, in March Getachew Teshale Kassa, federal MP and opposition party member, fled the country after he reported being harassed, beaten, and tortured by government security officials near the Awi desert, Amhara region.

In early June UDJ party members Getahun Abdu Bushra, Mekonnen Abdu Hida, Abdu Seid Amede, Mubarek Seid, and Girma Teshome in South Wello zone, Amhara region, all alleged being harassed and beaten by local authorities.

On July 4, Oromiya regional security officials beat university student and OPC member Nimona Tuffa in a forest near Guder town (see section 1.e.). The government did not investigate the case.

There were no developments in the 2008 beating of federal MP Gutu Mulisa and suspected CUD supporter Bilisuma Shuge.

Registered political parties must receive permission from regional governments to open and occupy local offices. There were, however, widespread reports of opposition parties closing offices due to intimidation and coercion by local officials. A common tactic reported was to intimidate landlords into evicting their political party tenants. For example, the Oromo National Congress had only one remaining office, down from more than 100 in 2005, and AEUP had 29 offices, down from 280 in 2005.

Authorities often disrupted or unlawfully banned opposition-party meetings.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement these laws effectively. The World Bank's 2008 Worldwide Governance Indicators reflected that corruption remained a serious problem.

The MOJ has primary responsibility for combating corruption, largely through the Federal Ethics and Anti-Corruption Commission (Ethics Commission). A combination of social pressure, cultural norms, and legal restrictions somewhat limited corruption. However, government officials appeared to manipulate the privatization process, and state- and party-owned businesses received preferential access to land leases and credit.

Public officials were not subject to financial disclosure laws.

In February the Ethics Commission reported that it conducted investigations on and arrested 203 corruption suspects from August 2008 to January 2009. The Ethics Commission also reported it held a training session for 553 persons on the concept of ethics, the anticorruption law, and corruption-prevention strategies.

In October federal MP Belete Etana Disassa published a testimony alleging several instances of serious corruption within the federal government, including illegal procurement, unlawful payments, and unaccounted spending amounting to more than 2.5 billion birr (\$200 million).

In February 2008 the Ethics Commission arrested Tesfaye Birru, former ETC managing director, and 12 other senior management staff and accused them of approving an equipment and technology contract that violated government bid regulations and cost 1.52 billion birr (\$126 million). In August the ETC found that the evidence against Tesfaye and the others presented a prima facie case of corruption and ordered the 12 defendants to present their cases, which were pending at year's end.

On December 24, the Federal High Court sentenced nine army officers and Kolfe-Keranyo subcity officials of Addis Ababa from seven to 10 years' imprisonment and fines of 5,000 to 10,000 birr (\$400 to \$800) for illegally possessing land worth more than 6.7 million birr (\$532,000) for personal gains.

In 2008 the Ethics Commission accused eight high-ranking National Bank officials of involvement in a gold scandal worth 158 million birr (\$12.6 million). The Federal High Court ordered the defendants to present their cases. The cases were pending at year's end.

The law provides for public access to government information, but access was largely restricted in practice. The Press Law, passed in July 2008, included freedom of information provisions, but it will not take effect for two years.

The government publishes its laws and regulations in the national gazette prior to their taking effect. The Communication Affairs Office managed contacts between the government, the press, and the public; however, the government routinely refused to respond to queries from the private press.

Government tenders were commonly discontinued after bids were received, re-released several times without being filled, or awarded to bidders with strong links to the government and ruling party with little to no transparency in these processes or reviews. Businesses across the private sector reported allegations of preferential access to credit, foreign exchange, relief from taxes and duties, and government contracts for ruling party-owned firms or companies owned by government loyalists.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated, although with significant government restriction, investigating and publishing their

findings on human rights cases. The government generally was distrustful and wary of domestic human rights groups and international observers.

Two of the most prominent domestic human rights organizations were EHRCO and the Ethiopian Women Lawyers Association (EWLA). The government routinely discounted EHRCO's reports, labeled it a political organization, and repeatedly obstructed its activities on the ground.

EWLA's primary function was to provide legal representation for disadvantaged women. These and numerous other groups mainly engaged in civic and human rights education, advocacy, legal assistance, and trial monitoring. However, the government neither shared information on nor acknowledged the existence of human rights abuses.

On February 13, the government adopted restrictive legislation that affected numerous civil society organizations. The Charities and Societies Proclamation prohibits CSOs that receive more than 10 percent of their funding from foreign sources from engaging in activities that promote human rights and democracy; the rights of children and persons with disabilities; equality among nations, nationalities, people, gender and religion; or conflict resolution or reconciliation. Since nearly all CSOs that work in these areas relied on foreign funding, it was likely that many would be unable to continue their activities once the law was fully implemented in February 2010. Among the CSOs affected were the two most prominent human rights organizations, EHRCO and EWLA. While both were able to reregister in December, EHRCO closed six offices by December and was operating with only its core staff. EWLA reduced its work force from 60 to 13. In late June the leaders of EHRCO and EWLA fled the country due to fear of persecution.

The government harassed individuals who worked for domestic human rights organizations. For example, on June 1, Werebabo woreda officials in South Wollo zone arrested EHRCO investigator Mulugeta Fentaw in Bistima town. He was charged with stealing 200 birr (\$16) and sentenced to eight months in prison. On July 17, the zonal high court dismissed the case (see section 1.d.).

The government generally cooperated with international organizations such as the UN. During the year, with the assistance of the Office of the High Commissioner for Human Rights' East Africa Regional Office, the government undertook a project to prepare all of its overdue initial, combined, and periodic reports required under various international and regional human rights instruments.

The government continued to restrict Somali region access to the ICRC, MSF, and other NGOs (see section 1.g.).

The government denied the ICRC access to federal prisons, police stations, and political prisoners. There were credible reports that security officials continued to intimidate or detain local individuals to prevent them from meeting with NGOs and foreign government officials investigating abuse allegations.

From May 3 to 7, state-owned Ethiopian Television broadcast a three-part documentary claiming to refute cases of human rights abuses documented by foreign observers. The MFA initiated an ostensible "investigation" conducted by the Ethiopian News Agency (ENA—part of the Government Communication Affairs Office). Human rights abuse victims and their families, neighbors, and friends were questioned by ENA officials, sometimes while being recorded on video and escorted by armed security officers. The testimony by individuals confirming their stories of abuse to these investigators was excised from the final documentary report. The government-established EHRC investigates human rights complaints and produces both annual and thematic reports. EHRC released a report on prison conditions in December 2008.

The Office of the Ombudsman has the authority to receive and investigate complaints with respect to misadministration by executive branch offices. The office received hundreds of complaints this year, mainly focused on delays or denials in services, improper institutional decisions, promotions or demotions, and pension issues. The majority of the complaints were from the Oromiya region. It is not known which complaints were investigated or acted upon.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution (article 25) provides all persons equal protection without discrimination based on race, nation, nationality, or other social origin, color, gender, language, religion, political or other opinion, property, birth, or status; however, in practice the government did not fully promote and protect these rights.

Women.—The constitution (article 35) provides women the same rights and protections as men. Harmful Traditional Practices (HTPs) such as FGM, abduction, and rape are explicitly criminalized; however, enforcement of these laws lagged. To address this, the government established a National Commission for Children's and

Women's Affairs in 2005, as part of the EHRC, to investigate alleged human rights violations against women and children.

Women and girls experienced gender-based violence daily, but it was under-reported due to shame, fear, or a victim's ignorance of legal protections. The National Committee for Traditional Practices in Ethiopia identified 120 HTPs. The 2005 Ethiopian Demographic and Health Survey found that more than 74 percent of women and girls were subjected to FGM, although the percentage was declining. The same survey found that four in five women who had been subjected to FGM in the Somali region, and three in five in the Afar region, underwent infibulation, the most severe form of FGM. In the context of gender-based violence, significant gender gaps in the justice system remained due to poor documentation, inadequate investigation, and lack of special handling of cases involving women and children.

The law criminalizes rape for which it provides penalties of five to 20 years' imprisonment, depending on the severity of the case; however, the law does not expressly address spousal rape. The government did not fully enforce the law, partially due to widespread underreporting. The Addis Ababa 2006 annual police report listed 736 rape cases out of an estimated population of 3.5 million persons; the true incidence may have been much higher. More-recent statistics on the number of abusers prosecuted, convicted, or punished were not available. However, EWLA reported that in 2006, 558 rape cases were reported and 281 offenders were punished. Additionally, in 2005, 938 incidents of rape were reported; however, only 103 offenders were punished. The length of imprisonment for offenders of both years was unknown.

Domestic violence, including spousal abuse, was a pervasive social problem. The 2005 Demographic and Health Survey found that 81 percent of women believed a husband had a right to beat his wife. A 2005 World Health Organization study found that in two rural districts, Meskan and Mareko, 71 percent of women were subject to physical or sexual violence, or both, by an intimate partner during their lifetime. Although women had recourse to the police and the courts, societal norms and limited infrastructure prevented many women from seeking legal redress, particularly in rural areas. The government prosecuted offenders on a limited scale. Domestic violence is illegal per the new criminal code. Depending on the severity of damage inflicted, punishment varies from small fines to imprisonment up to 10 to 15 years. During the year the government expanded its efforts to combat domestic violence by setting up a hotline run by the Federal Police, under the Ministry of Federal Affairs; another domestic violence hotline established by EWLA was temporarily suspended due to budget constraints. In addition, police officers were required to receive domestic violence training from domestic NGOs and the Ministry of the Women's Affairs. Prior to 2008 the government established a deputy commissioner of women's and children's rights in the EFRC.

Prostitution was legal for persons over age 18 and was commonly practiced around the country; however, the law prohibits pimping and benefiting from the prostitution of others. Persons engaging in prostitution routinely reported that poverty was the principal reason. Article 634 of the penal code (revised May 2005) stipulates "whoever for gain makes a profession of or lives by procuring or on the prostitution or immorality of another, or maintains, as a landlord or keeper, a brothel, is punishable with simple imprisonment and fine."

Sexual harassment was widespread. The penal code prescribes 18 to 24 months' imprisonment; however, harassment-related laws were not enforced.

The law sets the legal marriage age for girls and boys at 18; however, this law was not enforced. For example, a 2006 Pathfinder International study found that in the Amhara region, 48 percent of women were married before the age of 15, the highest early marriage rate in the country.

Limited access to family planning services, high fertility, low reproductive health and emergency obstetric services, and poor nutritional status and infections all contributed to high maternal mortality ratio (673/100,000 mothers), according to the 2005 Demographic and Health Survey. Maternal health care services did not reach the majority of women, and skilled birth attendants aided only 10 percent of births. The national average for prenatal care was 28 percent.

Discrimination against women was most acute in rural areas, where 85 percent of the population was located. The law contains discriminatory regulations, such as the recognition of the husband as the legal head of the family and the sole guardian of children over five years old. Courts generally did not consider domestic violence a justification for granting a divorce. There was limited legal recognition of common law marriage. Irrespective of the number of years the marriage existed, the number of children raised, and joint property, the law entitled women to only three months' financial support if a relationship ended. A common-law husband had no obligation to provide financial assistance to his family, and as a result, women and children

sometimes faced abandonment. Notwithstanding progressive provisions in the formal law, such as the family law passed in 2000, traditional courts continued to apply customary law in economic and social relationships.

According to the constitution, all land belongs to the government. However, both men and women have land use rights, which they can pass on as an inheritance as long as their offspring are also engaged in farming. Those who use the land may rent all or a portion of their land according to regional land laws, which vary from region to region. In Amhara one may rent up to 100 percent of one's land for a maximum of 25 years; in Tigray and SNNP regions, up to 50 percent of land may be rented for a maximum of 20 years; in Oromia the maximum duration of the lease is 15 years. All recently passed federal and regional land laws empower women to access government land. Inheritance laws also enable widowed women to inherit joint property they acquire during marriage. At year's end Gambella and Beni Shangul-Gumuz regions had not passed regional land laws.

In urban areas women had fewer employment opportunities than men, and the jobs available did not provide equal pay for equal work. Women's access to gainful employment, credit, and owning and/or managing a business was further limited by their low level of education and training, traditional attitudes, and limited access to information.

The Ministry of Education reported that female participation in postgraduate programs increased from 20,418 in 2003 to 63,317 in 2007 due to the expansion of higher-learning institutions, awareness trainings, and the establishment of gender offices in universities.

Children.—The constitution (article 36) provides a comprehensive list of rights for children. Citizenship is derived from one's parents.

The government supported efforts by domestic and international NGOs that focused on children's social, health, and legal issues, despite its limited ability to provide improved health care, basic education, or child protection. As a policy, primary education was universal, tuition-free, and compulsory; however, there were not enough schools to accommodate the country's youth, particularly in rural areas, the cost of school supplies was prohibitive for many families, and there was no legislation to enforce compulsory primary education.

According to the NGO Save The Children's 2008 annual report, in the country there were approximately 11.3 million children without basic health care, and 84 percent of children under five did not receive basic health care.

Child abuse was widespread. Members of an NGO staffed 10 child protection units in Addis Ababa's police stations to protect the rights of juvenile delinquents and juvenile victims of crime. Some police officers received training during the year on procedures for handling cases of child abuse.

A study conducted by the African Child Policy Forum during the year revealed that prosecuting offenders of sexual violence against children was difficult due to inconsistent interpretation of laws among legal bodies and the offender's right to bail, which often resulted in the offender fleeing or coercing the victim or his family to drop the charges.

Societal abuse of young girls continued to be a problem. HTPs included FGM, early marriage, marriage by abduction, and food and work prohibitions. A 2006 African Child Policy Forum retrospective survey indicated that 68.5 percent of girls surveyed had been sexually abused and 84 percent had been physically abused.

In the Afar Region older men continued to marry young girls, but this traditional practice continued to face greater scrutiny and criticism. Local NGOs, such as the Kembatta Women's Self-Help Center and the Tigray Women's Association, also influenced societal attitudes toward HTPs and early marriage in their areas. Regional governments in Amhara and Tigray ran programs to educate young women on issues associated with early marriage.

The majority of girls and women in the country had undergone some form of FGM. Girls typically experienced clitorectomies seven days after birth (consisting of an excision of the clitoris, often with partial labial excision) and faced infibulations (the most extreme and dangerous form of FGM) at the onset of puberty. The 2005 Health Survey by the Central Statistical Agency reported that the number of girls and women who had undergone FGM had decreased from 2000 to 2005 from 80 to 74 percent, while support for the practice among women had dropped from 60 to 29 percent. Additionally, a February 2008 study funded by Save the Children Norway reported a 24 percent national reduction in FGM cases over the past 10 years due in part to a strong anti-FGM campaign. The penal code criminalizes practitioners of clitorotomy, with imprisonment of at least three months or a fine of at least 500 birr (\$40). Likewise, infibulation of the genitals is punishable with imprisonment of five to 10 years. However, no criminal charges have ever been brought for FGM.

The government discouraged the practice of FGM through education in public schools and broader mass media campaigns.

Although illegal, the abduction of women and girls as a form of marriage continued to be widespread in several regions, including the Amhara, Oromiya, and SNNP regions, despite the government's attempts to combat the practice. Forced sexual relationships accompanied most marriages by abduction, and women often experienced physical abuse during the abduction. Abductions led to conflicts among families, communities, and ethnic groups. In cases of marriage by abduction, the perpetrator did not face punishment if the victim agreed to marry the perpetrator.

Child marriage was also a problem, particularly in the Amhara and Tigray regions, where girls were routinely married as early as age seven, despite the legal minimum age of 18 for marriage. There were some signs of growing public awareness in communities of the problem of abuse of women and girls, including early marriage.

The UN Children's Fund (UNICEF) estimated there were between 150,000 and 200,000 street children nationally, with a further one million vulnerable or at risk of ending up on the streets. UNICEF stated the problem was exacerbated because of families' inability to support children due to parental illness and decreased household income. These children begged, sometimes as part of a gang, or worked in the informal sector. Government and privately run orphanages were unable to handle the number of street children, and older children often abused younger ones. "Handlers" sometimes maimed or blinded children to raise their earnings from begging.

There were reports during the year of recruitment of child soldiers in connection with the Somali region conflict (see section 1.g.).

There were an estimated 4.6 million orphans in the country, according to UNICEF. Government-run orphanages were overcrowded, and conditions were often unsanitary. Due to severe resource constraints, hospitals and orphanages often overlooked or neglected abandoned infants. Children did not receive adequate health care, and several infants died due to lack of adequate medical attention.

Trafficking in Persons.—The law prohibits trafficking in persons; however, there were reports that persons were trafficked from and within the country. The law prescribes five to 20 years' imprisonment for such crimes. The Ministry of Labor and Social Affairs (MOLSA), in collaboration with the police, is responsible for monitoring trafficking in persons, while the MOJ is responsible for enforcing laws related to trafficking.

The country is a source country for men, women, and children trafficked primarily for the purpose of forced labor and, to a lesser extent, for commercial sexual exploitation. High unemployment, extreme poverty, and the hope for better opportunities abroad drove migration. Local NGOs estimated 30,000 to 35,000 persons were trafficked internationally between March 2007 and March 2008. More women than men were trafficked. Young women, particularly those ages 16 to 30, were the most commonly trafficked group, while a small number of children were also reportedly trafficked internationally.

Rural children and adults were trafficked to urban areas for domestic servitude and, less frequently, commercial sexual exploitation and other forced labor, such as street vending, begging, traditional weaving, or agriculture; situations of debt bondage were reported. Women were trafficked transnationally for domestic servitude, primarily to Saudi Arabia and the United Arab Emirates, but also to Bahrain, Djibouti, Kuwait, Lebanon, Sudan, Syria, and Yemen. Some of these women were forced into the sex trade after arriving at their destinations. Small numbers of men were trafficked to Saudi Arabia and the Gulf States for low-skilled forced labor.

The government suspended travel for young women to Lebanon and Syria after several women were tortured and killed. The government also suspended the travel of young women to Qatar after diplomatic ties were cut in April 2008.

On December 4, the government reported that 86 Ethiopian domestic workers were repatriated from Lebanon with the support of the Ethiopian consulate in Beirut and the government of Lebanon. Some of the repatriated domestic workers were residing in Lebanon illegally after their work permit expired, and the rest entered Lebanon illegally.

Addis Ababa's police Child Protection Unit (CPU) reported that trafficking broker networks grew increasingly sophisticated and collaborative. Traffickers began approaching vulnerable individuals at bus terminals seven to nine miles outside of Addis Ababa to avoid police presence. Traffickers sometimes used agents and brokers to lure victims with false offers of jobs, food, guidance, or shelter. Cross-country bus and truck drivers were involved in trafficking of children, while brokers, pimps, and brothel owners finalize deals at the receiving end.

Local brokers operated and recruited at the community level, and many knew the victim or victim's family. To avoid police detection and identification, local brokers

did not advertise, often worked from rented houses, cafes, or hotel rooms, and they changed places often. Some brokers used commission-based facilitators who were trusted by a potential victim's family to recruit victims.

The government's efforts to prevent international trafficking increased, while measures to heighten awareness of internal trafficking remained limited. It employed two predeparture counselors to brief persons intending to work overseas, worked with NGOs and the International Organization for Migration (IOM) to monitor immigration and emigration patterns for evidence of trafficking, and supervised and trained international labor migration firms.

In October Mebrat Beyene, head of diaspora affairs at the MFA, reported that the government was working with the IOM and authorities in Tripoli to secure the release of 200 Ethiopian nationals who had been detained for two years in Libya. The detainees, some of whom were trafficked, said that they were arrested in Libya en route to other nations where they would seek work. At year's end the detainees had not been released.

The government and its embassies and consulates provided little assistance to victims of trafficking: limited legal advice, infrequent temporary shelter, and no repatriation loans. Returning victims relied on psychological services provided by NGOs and government hospitals.

The government accorded no special protections or restitution, and it had very limited shelter provisions or other special services benefits for victim returnees. In 2008 there were no reports of trafficking victims being detained, jailed, or prosecuted for violations of laws, such as those governing prostitution or immigration.

While the government sustained its efforts to prosecute and punish international trafficking offenders and initiated investigations of internal child trafficking during the reporting period, no cases of internal trafficking were prosecuted. In addition, law enforcement entities lacked the institutional capacity to separate data on trafficking cases from broader fraud cases. In 2008, the CPU at the central bus terminal reported 899 cases of child trafficking to the police, an increase over the previous year.

In June 2008 the Federal High Court sentenced a man to 15 years' imprisonment and fined him 17,000 birr (\$1,360) for illegally sending a woman to Lebanon, where she was forced to work as a domestic servant and was later thrown from a building by her employer. A second defendant was sentenced to five years' imprisonment and a 5,650 birr (\$452) fine for facilitating the same woman's trafficking.

A small number of local police and border control agents were believed to accept bribes to overlook trafficking.

Persons With Disabilities.—The constitution does not mandate equal rights for persons with disabilities. However, two recently passed laws prohibit discrimination against persons with physical and mental disabilities in employment and mandate access to buildings.

The Right to Employment of Persons with Disabilities Proclamation (no. 568), gazetted in March 2008, prohibits employment discrimination on the basis on disability. It also states that employers are responsible for providing appropriate working or training conditions and materials to disabled persons. The law specifically recognizes the additional burden on women with disabilities. The government took limited measures to enforce the law. For example, the government assigned interpreters for hearing impaired civil service employees.

The Ethiopian Building Proclamation (no. 624), gazetted in May, contains an article that mandates building accessibility and accessible toilet facilities for persons with physical disabilities. In addition, landlords are required to give persons with disabilities preference for ground floor apartments, and this was respected in practice.

Women with disabilities were more disadvantaged than men in education and employment. An Addis Ababa University study showed that female students with disabilities were subjected to a heavier burden of domestic work than their male peers. The enrollment rate for girls with disabilities was lower than for boys at the primary school level, and this gap increased at higher levels of education. Girls with disabilities also were much more likely to suffer physical and sexual abuse than able-bodied girls.

There were approximately seven million persons with disabilities, according to the Ethiopian Federation of Persons with Disabilities. There was one mental hospital and an estimated 10 psychiatrists in the country. There were several schools for hearing and visually impaired persons and several training centers for children and young persons with intellectual disabilities. There was a network of prosthetic and orthopedic centers in five of the nine regional states.

The CSO law adopted in February prohibits organizations receiving more than 10 percent of their funding from foreign sources from promoting the rights of the dis-

abled. Several domestic associations, such as the Ethiopian National Association of the Blind, the Ethiopian National Association of the Deaf, and the Ethiopian National Association of the Physically Handicapped, were negatively affected by the legislation.

National/Racial/Ethnic Minorities.—There are more than 80 ethnic groups, of which the Oromo, at 40 percent of the population, was the largest. Although many groups influenced political and cultural life, Amharas and Tigrayans from the northern highlands played a dominant role. The federal system drew boundaries roughly along major ethnic group lines, and regional states had much greater control over their affairs than previously. Most political parties remained primarily ethnically based.

The military remained an ethnically diverse organization at lower levels; however, Tigrayans increasingly dominated the senior officer corps both through preferential promotions and heightened attrition among, and purges of, non-Tigrayans. There were occasional reports that officials terminated the employment of teachers and other government workers if they were not of the dominant ethnic group in the region.

Government, ONLF, and UWSLF forces were responsible for widespread human rights abuses in the Somali region (see section 1.g.).

Several minority ethnic groups in the SNNP region (composed of more than 50 minority ethnic groups) complained that the government took measures to silence indigenous voices who protested the exploitation of natural resources. On June 26, the regional State Justice Bureau of the SNNP Region revoked the licenses and suspended the activities of 42 community-based organizations (CBOs) for engaging in activities outside of their mandate. Alleged infractions included mobilizing communities against the use of fertilizers, setting up a parallel government, promoting harmful traditional practices, nontransparent remuneration and accounting practices, producing no visible development projects for the perceived amount of money the associations were receiving, and practicing traditional rites that offend Christians. All of the CBOs were cultural and environmental preservation associations. The associations denied some or all of the allegations and lodged appeals with the Office of the Prime Minister, the ombudsman, the House of People's Representatives, and the House of Federation. The case continued at year's end.

Ethnic conflict in the western, southern, and eastern areas resulted in the death of hundreds and displacement of tens of thousands of persons. For example, from November 7 to 11, 2008, a conflict over cattle grazing land between residents of Derashe Special woreda and Konso Special woreda (SNNP Region) resulted in the death of Dayat Bongo. His body was mutilated by Konso residents. Nine others were injured, and a large amount of property was damaged.

Following the incident, residents from Holte and Anota kebele (Derashe woreda) accused residents of Keyama kebele (Derashe woreda) of siding with the Konso residents. Anota kebele residents attacked Keyama kebele residents from January 2 to 4; 18 persons were killed and 26 injured.

In February a conflict between the Borena (ethnic Oromos) and Gheri (ethnic Somalis) tribes resulted in at least 600 deaths and the displacement of more than 160,000 persons. The conflict initially began as a dispute over the drilling of a borehole along the border between the regions. Another conflict between the same two groups erupted in early September, resulting in at least six deaths and 29 injured. The conflict was caused by the construction of a school and veterinary clinic on a contested piece of land.

On May 20, clashes between Oromo, Afar, and Argoba ethnic groups left 14 dead and 18 severely injured.

There was no development in the February 2008 death from stabbing of Zewdu Abate, allegedly due to ethnic tension.

In connection with a May 2008 conflict over land rights between the Oromo and Gumuz ethnic groups in the Sasiga, Diga, Bumto Gida, and Limu districts in the Oromiya region, federal and local police arrested a reported 103 suspects, including the Benishangul-Gumuz regional vice president. On August 24, the Federal High Court found 101 of the defendants guilty of ethnic cleansing and acquitted two. A few days later the same court sentenced six of the defendants to death and the remaining 95 to prison terms ranging from six years to life.

In August zonal government representatives from the Benishangul-Gumuz region complained to the House of Federation that federal authorities were not doing enough to help contain conflicts in the region.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Homosexuality is illegal and punishable by imprisonment. Instances of homosexual activity involving coercion or involving a minor (age 13 to 16)

are punishable by three months' to five years' imprisonment. Where children under 13 years of age are involved, the law provides for imprisonment of five to 25 years. There were some reports of violence against lesbian, gay, bisexual, and transgender individuals; however, reporting was limited due to fears of retribution, discrimination, or stigmatization.

The AIDS Resource Center in Addis Ababa reported that the majority of self-identified gay and lesbian callers, 75 percent of whom were male, requested assistance in changing their behavior to avoid discrimination. Many gay men reported anxiety, confusion, identity crises, depression, self-ostracizing, religious conflict, and suicide attempts.

In December 2008 nearly a dozen religious figures adopted a resolution against homosexuality, urging lawmakers to endorse a ban on homosexual activity in the constitution. The group also encouraged the government to place strict controls on the distribution of pornographic materials. No action was taken on the resolution by year's end.

Other Societal Violence or Discrimination.—Societal stigma and discrimination against persons living with or affected by HIV/AIDS continued in the areas of education, employment, and community integration. Despite the abundance of anecdotal information, there were no statistics on the scale of this problem.

Section 7. Worker Rights

a. The Right of Association.—The law provides most workers with the right to form and join unions, and the government allowed this in practice. However, the law specifically excludes managerial employees, teachers, and civil servants (including judges, prosecutors, and security service workers) from organizing unions. There was government interference in trade union activities during the year. Under a regulation passed in August 2008, the Ethiopian Revenue and Customs Authority's director general has the sole power to dismiss government workers suspected of corruption. Courts have no authority to reinstate workers cleared of such charges.

Based on the Council of Ministers' regulation No. 157/2008, passed in December 2008, the government sued the Workers' Association of the National Bank of Ethiopia in the Federal High Court, claiming that the bank was a nonprofit government agency and the labor union should be dissolved. On February 19, the High Court ruled that the association could not be dissolved by a regulation while the rights of workers of the bank were protected by law. The government appealed to the Supreme Court, and at year's end the case was pending.

A minimum of 10 workers is required to form a union. While the law provides all unions with the right to register, the government may refuse to register trade unions that do not meet its registration requirements. There were no reports that the government used this authority during the year. The law stipulates that a trade organization may not act in an overtly political manner. Approximately 350,000 workers were union members.

Seasonal and part-time agricultural workers cannot organize into labor unions. Compensation, benefits, and working conditions of seasonal agricultural workers were far below those of unionized permanent agricultural employees.

In 2008 the Supreme Court ruled that the independent Ethiopian Teachers Association be shut down and forfeit its name, property, and bank assets to the government-controlled ETA. The decision capped 15 years of lengthy legal proceedings and appeals. Subsequently, the original ETA applied for registration with the MOJ as the National Teachers Association but was denied registration. Leaders of the organization sued the MOJ for refusing to register their association but lost in the Federal First Instance Court. They appealed, and the case remained pending at year's end.

In July 2008 employees of Shell Ethiopia demonstrated at the gate of their head office, expressing disappointment with Shell's decision to sell its interests in the country to Oil-Libya and demanding better treatment. In November 2007 Shell Ethiopia's labor union filed a lawsuit in the Federal First Instance Court alleging that Shell Ethiopia illegally changed its retirement and severance packages to save money on unemployment payments prior to a possible closure of operations. The Confederation of Ethiopian Trade Unions intervened in the dispute between the labor union and Shell Ethiopia and reached an agreement that workers' full retirement and severance packages would be transferred to the successor, Oil-Libya.

In 2008 top management of the state-owned Bole Printing Enterprise disagreed with its trade union on worker compensation and terms of termination of nine fired employees. In late December an ad hoc labor advisory board composed of state ministers, representatives of the employees, the Confederation of Ethiopian Trade Unions, and the management of the enterprise found that both sides were at fault and decided to reinstate the fired employees.

Although the constitution and law provide workers with the right to strike to protect their interests, it contains detailed provisions that make legal strike actions difficult to carry out, such as a minimum of 30 days' advance notice before striking if the case is referred to a court or labor relations board. The law requires aggrieved workers to attempt reconciliation with employers before striking, and includes a lengthy dispute settlement process. These applied equally to an employer's right to lock workers out. Two-thirds of the workers involved must support a strike for it to occur.

If the case has not already been referred to a court or labor relations board, workers retained the right to strike without resorting to either of these options, provided they give at least 10 days' notice to the other party and to the MOLSA and make efforts at reconciliation.

The law also prohibits strikes by workers who provide essential services, including air transport and urban bus service workers, electric power suppliers, gas station personnel, hospital and pharmacy personnel, firefighters, telecommunications personnel, and urban sanitary workers.

The law prohibits retribution against strikers, but labor leaders stated that most workers were not convinced that the government would enforce this protection. Labor officials reported that, due to high unemployment and long delays in the hearing of labor cases, some workers were afraid to participate in strikes or other labor actions.

b. The Right to Organize and Bargain Collectively.—The law protects the right of collective bargaining for most workers, and in practice the government allowed citizens to exercise this right freely. Labor experts estimated that collective bargaining agreements covered more than 90 percent of unionized workers. Representatives negotiated wages at the plant level. Unions in the formal industrial sector made some efforts to enforce labor regulations.

Although the law prohibits antiunion discrimination by employers against union members and organizers, unions reported that employers frequently fired union activists. Lawsuits alleging unlawful dismissal often take years to resolve because of case backlogs in the courts. Employers found guilty of antiunion discrimination were required to reinstate workers fired for union activities and generally did so in practice.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—While the law prohibits forced or compulsory labor, including by children, such practices occurred (see sections 6 and 7.d.).

Courts could order forced labor as a punitive measure. Both adults and children were forced to engage in street vending, begging, traditional weaving, or agriculture work. Situations of debt bondage also occurred in traditional weaving, pottery, cattle herding, and other agricultural activities, mostly in rural areas. Forced child labor occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—There were laws against child labor; however, the government did not effectively implement these laws in practice, and child labor remained a serious problem, both in urban and rural areas. Under the law, the minimum age for wage or salary employment is 14 years; however, the minimum age for employment was not effectively enforced. Special provisions cover children between the ages of 14 and 18, including the prohibition of hazardous or night work. By law children between the ages of 14 and 18 are not permitted to work more than seven hours per day, between the hours of 10 p.m. and 6 a.m., on public holidays or rest days, or overtime. The law defines hazardous work as work in factories or involving machinery with moving parts or any work that could jeopardize a child's health. Prohibited work sectors include transporting passengers, electric generation plants, underground work, street cleaning, and many other sectors.

A 2001 survey conducted by the Central Statistics Authority found that approximately 58 percent of boys and 42 percent of girls ages five to 14 were working. These figures were supported by a 2006 UNHCR study on the worst forms of child labor. The great majority of working children were found in the agricultural sector (95 percent), followed by services, manufacturing, and other sectors. The number of working children was higher in the Amhara, Oromiya, SNNP, and Tigray regions than in other regions. During the year the government increased investments in modernizing agricultural practices as well as in the construction of schools in efforts to combat the problem of children in agricultural sectors.

According to the MOLSA, many children worked for their families without pay. In both rural and urban areas, children often began working at young ages. The MOLSA reported that two out of five working children were below the age of six.

In rural areas, children worked in agriculture on commercial and family farms and in domestic service. Children in rural areas, especially boys, engaged in activities such as cattle herding, petty trading, plowing, harvesting, and weeding, while other children, mostly girls, collected firewood and fetch water. In urban areas many children, including orphans, worked in domestic services, often working long hours which may prevent them from attending school regularly. Children in urban areas also worked in construction, manufacturing, shining shoes, making clothes, portering, directing customers to taxis, petty trading, and herding animals. Many children believed they were unable to quit their jobs and feared physical, verbal, and sexual abuse from their employers while performing their work. According to social welfare activists and civic organizers, who cited anecdotal evidence, forced child labor was poorly documented, and child laborers often faced physical, sexual, and emotional abuse at the hands of their employers.

Estimates of the population of street children varied, with government estimates of approximately 100,000 and the UNICEF estimate of 600,000. In Addis Ababa alone, there were an estimated 50,000 to 60,000 street children, according to the government, and 100,000 according to UNICEF. Some of these children worked in the informal sector to survive.

The commercial sexual exploitation of children continued during the year, particularly in urban areas. Girls as young as 11 reportedly were recruited to work in brothels, often sought by customers who believed them to be free of sexually transmitted diseases. Girls were also exploited as prostitutes in hotels, bars, resort towns, and rural truck stops. Reports indicated that some young girls were forced into prostitution by their family members. Within the country, children were trafficked from rural to urban areas for domestic service, commercial sexual exploitation, and forced labor in street vending and other activities. Reports indicated that children were trafficked from the Oromiya and the SNNP regions to other regions of the country for forced or bonded labor in domestic service.

Child labor issues are currently covered by the MOLSA, with limited support from the Ministry of Women's Affairs and the Ministry of Youth and Sports. Cooperation, information sharing, and coordination between and among the ministries were poor. Courts are responsible for enforcing children's rights, and criminal and civil penalties may be levied in child rights violation cases. In the absence of a national strategy, investigation and disposition of child rights violation cases was minimal.

To prevent child trafficking, a joint police-NGO child victim identification and referral mechanism operates in the capital. The CPUs in each Addis Ababa police station rescued and collected information on trafficked children that facilitated their return to their families; the CPUs referred 240 trafficked children to IOM and local NGOs for care in 2006. The CPUs also collected data on rescued children to facilitate their reunification with their families.

Internationally funded centers in Addis Ababa provided shelter, medical care, counseling, and reintegration assistance to girls victimized by trafficking. Other international NGOs provided assistance to child victims of commercial sexual exploitation, including such services as a drop-in center, shelter, educational services, skills training, guidance, assistance with income-generating and employment activities, and family reunification services.

e. Acceptable Conditions of Work.—There is no national minimum wage. Some government institutions and public enterprises, however, set their own minimum wages. Public sector employees, the largest group of wage earners, earned a monthly minimum wage of approximately 320 birr (\$25); employees in the banking and insurance sector had a minimum monthly wage of 336 birr (\$27). According to the Office for the Study of Wages and Other Remuneration, these wages did not provide a decent standard of living for a worker and family. Consequently, most families in the wage sector required at least two wage earners to survive, which forced many children to leave school early. Only a small percentage of the population was involved in wage labor employment, which is concentrated in urban areas. Many young girls, often victims of traffickers, migrated illegally to the Gulf States in search of housekeeping work in order to assist families back home. Many of these girls were subjected to inhumane living and working conditions, and some have lost their lives. In an effort to prevent these situations, the MOLSA continued to encourage illegal employment agencies to register as legal organizations.

The Ethiopian labor law provides for a 48-hour maximum legal workweek with a 24-hour rest period, premium pay for overtime, and prohibition of excessive compulsory overtime. Although the government did little to enforce the law, in practice most employees in the formal sector worked a 40-hour workweek. However, many foreign, migrant, and informal sector workers worked more than 48 hours per week.

The government, industries, and unions negotiated occupational health and safety standards; however, the MOLSA inspection department did not effectively enforce

these standards, due to lack of resources. Lack of detailed, sector-specific health and safety guidelines also precluded enforcement. Workers had the right to remove themselves from dangerous situations without jeopardizing their employment; however, most workers feared losing their jobs if they were to do so.

GABON

Gabon is a republic dominated by a strong presidency and the Democratic Party of Gabon (PDG), which has held power since 1968. The population is approximately 1.4 million. Former president Omar Bongo Ondimba, who ruled the country for 41 years, died on June 8. His son, PDG leader Ali Bongo Ondimba, was elected to a seven-year term on August 30 and inaugurated on October 16. Irregularities marred the election process. The PDG dominated the political arena and controlled two-thirds of the seats in the National Assembly. Security forces including the military answer to civilian authorities and, with few exceptions, civilian oversight of the security forces was effective.

The country's human rights record remained poor. The following human rights problems were reported: arbitrary killings by security forces and ritualistic killings; use of excessive force, including torture of prisoners and detainees; harsh prison conditions; arbitrary arrest and detention; an inefficient judiciary susceptible to government influence; restrictions on the right to privacy; restrictions on freedom of speech, press, association, and movement; harassment of refugees; widespread government corruption; violence and societal discrimination against women, persons with HIV/AIDS, and noncitizen Africans; and trafficking in persons, particularly children.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were unconfirmed reports the government and its forces committed unlawful killings. Most of these reports came in the weeks following the presidential election. The government claimed three persons died in Port Gentil during postelection riots. The newspaper *l'Union* stated that at least six persons died. Opposition reports claimed much higher numbers killed by government security forces suppressing the unrest.

Ritualistic killings occurred and generally went unpunished. For example, in June a six-year-old girl was found mutilated in the neighborhood of Petit Paris in Libreville. Two mutilated bodies were found on the beach of Libreville: a 10-year-old girl who was found in March whose clitoris and breasts had been removed, and a 37-year-old man who was found mutilated in October. Authorities condemned the killings but arrested no one for the crimes.

The Association to Fight Ritual Crimes (ALCR), a local nongovernmental organization (NGO) dedicated to combating ritual crimes, reported 11 persons positively identified as victims of ritual crimes, including the examples noted above. Another eight cases were likely but unconfirmed. The ALCR estimated at least double that figure of ritual crimes occurred in the country but were not reported or were incorrectly identified.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the constitution and law prohibit such practices, credible reports persisted of security forces beating prisoners and detainees to extract confessions.

Unconfirmed reports from the African immigrant community asserted that police and soldiers occasionally beat noncitizen Africans during operations to identify and deport illegal immigrants. Refugees continued to complain of harassment and extortion by security forces.

There were isolated reports that practitioners of certain indigenous religions inflicted bodily harm and sometimes killed other persons.

Prison and Detention Center Conditions.—Prisons were overcrowded, and conditions were harsh. Food, sanitation, and ventilation were poor, but basic medical care was provided. NGOs and private citizens occasionally made contributions to augment prisoners' poor food rations. During the year juveniles were held in their own facilities, and pretrial detainees were held with convicted prisoners.

There were no known visits by human rights monitors to prisons; however, there also were no reports that the government impeded such visits.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention, but the government did not always observe these prohibitions. In Port Gentil, in the days following the presidential election, there were numerous reports of extrajudicial incarcerations and detentions.

Role of the Police and Security Apparatus.—The national police, under the Ministry of Interior, and the gendarmerie, under the Ministry of Defense, were responsible for law enforcement and public security; the gendarmerie was also responsible for operating checkpoints. Elements of the armed forces and the Republican Guard, an elite unit that protects the president, sometimes performed internal security functions. The police were inefficient, and corruption was a serious problem. Security forces often sought bribes at checkpoints to supplement their salaries. The Inspector General's Office was responsible for investigating police abuse; however, impunity was a problem.

Arrest Procedures and Treatment While in Detention.—The law requires arrest warrants based on sufficient evidence and issued by a duly authorized official; however, security forces frequently disregarded this provision. The law allows authorities to initially detain a suspect up to 48 hours without charge, but police often failed to respect this time limit. Detainees usually were promptly informed of charges against them; however, authorities often did not file charges expeditiously and they detained persons arbitrarily, sometimes for long periods. There is a functioning bail system, and conditional release was possible after charges had been announced if further investigation was required. Detainees were allowed prompt access to family members and to their lawyer or, if indigent, to one provided by the state.

Members of the security forces continued to detain individuals at roadblocks under the guise of checking vehicle registration and identity papers. Security forces frequently used such operations to extort money.

Pretrial detention, limited to six months for a misdemeanor and one year for a felony charge, may be extended for six months by the examining magistrate. Pretrial detainees have the right of free access to their attorneys, and this right was generally respected. Detainees have the right to an expeditious trial, but overburdened dockets resulted in prolonged pretrial detention.

e. Denial of Fair Public Trial.—Although the law provides for an independent judiciary, the judiciary was inefficient and remained susceptible to government influence. The president appoints and can dismiss judges through the Ministry of Justice, to which the judiciary is accountable. Corruption was a problem.

The judicial system includes regular courts, a military tribunal, and a civilian High Court of Justice. The regular court system includes trial courts, appellate courts, and the Supreme Court. The Constitutional Court is a separate body charged with examining constitutional questions, including the certification of elections. The Constitutional Court upheld and reaffirmed that the process for succession following president Omar Bongo's death was constitutional. In addition the court determined the succession of the interim president and the extension of the 45-day period to select a new president were constitutional, and it considered and ruled on formal complaints regarding the conduct of the election.

The High Court of Justice is a nonpermanent special body composed of professional magistrates. It is constituted by the government as required to consider matters of security.

The military court is appointed each year by the Office of the Presidency and is composed of selected magistrates and military personnel. The court provides the same basic legal rights as a civilian court.

Minor disputes may be taken to a local chief, particularly in rural areas, but the government did not always recognize their decisions.

Trial Procedures.—The constitution provides the right to a public trial and to legal counsel, and the government generally respected these rights. Defendants are presumed innocent. Nevertheless, a judge may deliver an immediate verdict of guilty at the initial hearing in a state security trial, if the government presents sufficient evidence. Defendants have the right to be present, have access to a lawyer—if indigent, to one provided by the state—confront witnesses against them, present witnesses or evidence on their own behalf, have access to government-held evidence against them through their lawyer, and to appeal. The government generally respected these rights. These rights extend to all citizens.

A criminal tribunal is composed of one judge, two deputy judges, and two jurors.

Political Prisoners and Detainees.—Politically motivated arrests were usually rare; however, following the presidential election, numerous credible reports of politically motivated detentions and arrests became public.

International NGOs have not requested formal visits or reviews of political prisoners in the last three years, but they are in principle allowed access.

Civil Judicial Procedures and Remedies.—There was an independent civil judiciary, but it was susceptible to government influence and corruption. Corruption was also a problem in the enforcement of domestic court orders. Administrative remedies were not generally available.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and law prohibit such actions; however, the government did not respect these prohibitions in practice. As part of criminal investigations, police requested and easily obtained search warrants from judges, sometimes after the fact.

Security forces conducted warrantless searches for illegal immigrants and criminals, using street stops and identity checks.

Authorities reportedly routinely monitored private telephone conversations, personal mail, and the movement of citizens.

On September 2, the Telecommunications Regulation Agency suspended telephone texting after well-known figures (and journalists) reported receiving telephone text messages containing death threats. Texting was again suspended with no explanation on October 13 in advance of the inauguration of Ali Bongo Ondimba on October 15. Authorities restored telephone texting on November 10.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution and law provide for freedom of speech and of the press; however, the government generally did not respect these rights in practice. Many citizens hesitated to criticize the government for fear of losing their jobs. Local journalists generally practiced self-censorship due to harassment by the government. In one case in August, a political cartoonist was detained and questioned for two days because he drew a series of cartoons lampooning the PDG. The few opposition legislators in the National Assembly openly criticized the government, but virtually no citizen, journalist, or politician directly criticized former president Omar Bongo. After the death of president Bongo, however, the media engaged in a more open debate concerning the country's future and the presidential election.

On September 1, five masked gunmen destroyed the transmitter of satellite television station Go Africa with automatic gunfire. At the time Go Africa was cobroadcasting for a station owned by independent presidential candidate André Mba Obame. Mba Obame's television station, TVPlus, had its broadcast cut off by authorities on election day on the grounds it misused archival images in a program about former president Omar Bongo Ondimba.

In September opposition supporters assaulted Patrick Bibang, a reporter at Radio Africa No.1, as he was trying to make his way through a large opposition demonstration.

On September 25, Albert Yangari, chief editor of l'Union, was detained and held for questioning for several hours in connection with postelection reporting on violence in Port Gentil.

On September 29, authorities arrested and detained political cartoonist Pahe for three days for allegedly disparaging the country's military in a cartoon.

On September 3, employees of Radio-Television Nazareth were attacked outside the entrance of the national electoral commission in Libreville by opposition supporters reacting to the announcement of Ali Bongo Ondimba's election victory.

The only daily newspaper was the government-affiliated l'Union. Approximately nine privately owned weekly or monthly newspapers represented independent views and those of various political parties, but most appeared irregularly due to financial constraints or, in some cases, government suspension of their publication licenses. All newspapers, including l'Union, criticized the government and political leaders of all parties, but not the office of the president. Following the death of Omar Bongo Ondimba, privately owned newspapers appeared more regularly.

Foreign newspapers and magazines were widely available.

The government owned and operated two radio stations that broadcast throughout the country. Much of their news coverage concerned the activities of government officials, although editorials sometimes criticized specific government policies or ministers. Seven privately owned radio stations were operating at year's end. International radio stations broadcast locally.

The government owned and operated two television stations. Four privately owned television stations transmitted 24 hours a day. Satellite television reception was available.

Libel can be either a criminal offense or a civil matter. The law authorizes the government to initiate criminal libel prosecution against persons for libeling elected government officials; it also authorizes the state to criminalize civil libel suits.

The law stipulates penalties for libel and other offenses to include a one- to three-month publishing suspension for a first offense and a three- to six-month suspension for repeat offenses. Editors and authors of libelous articles can be jailed for two to six months and fined 500,000 to five million CFA francs (\$1,100 to \$11,000).

Internet Freedom.—There were no government restrictions on access to the Internet or reports the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics for 2008, approximately 6.2 percent of the population used the Internet.

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

b. Freedom of Peaceful Assembly and Association.—The constitution and law provide for freedom of assembly and association, and the government generally respected these rights in practice prior to president Omar Bongo's death. In the period following his death, the presence of security forces became common in numerous well-trafficked areas of Libreville. The government dissuaded large opposition groups from assembling by not approving official requests to demonstrate and by maintaining a large security presence throughout urban areas.

On August 7, an estimated 1,000 demonstrators led by opposition leaders clashed with police at a rally calling for then-defense minister Ali Bongo Ondimba to resign. The opposition leaders argued Bongo Ondimba should step down from the government because he could use his position to advance his own presidential campaign. The presidential candidates attending the demonstration did so despite not having official approval to demonstrate.

Opposition candidates were allowed to hold rallies during the two-week official election period without interference.

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

In practice the government allowed members of religious groups to assemble, practice their religion, and proselytize.

In recent years some Protestant Christian denominations have alleged government television stations accorded free broadcast time to the Catholic Church but not to minority religious groups. Some critics alleged the armed forces favored Roman Catholics and Muslims in hiring and promotion.

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

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—Although the constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, the government frequently restricted these rights in practice.

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

There were no legally mandated restrictions on internal movement, but the military, police, and gendarmes continued to stop travelers frequently to check identity, residence, and registration documents, or to demand bribes. Members of the security forces harassed expatriate Africans working legally as merchants, service sector employees, and manual laborers. Some members of the security forces extorted bribes with threats of confiscation of residency documents or imprisonment. Residency permits cost 150,000 CFA francs (\$340) per year, and first-time applicants were required to provide the cost of a one-way air ticket to their country of origin. In principle, but usually not in practice, the government refunded the cost of the air ticket when the individual departed the country permanently.

During September, after the riots in Port-Gentil, all opposition candidates were forbidden by the minister of interior to leave the country. The leader of the Rally for Gabon party, Paul Mba Abessole, was directly prevented from traveling to Cote d'Ivoire on September 8. Other opposition leaders cancelled plans to leave the country following the government's prohibiting Mba Abessole from traveling. However, four days after the announced ban on travel by opposition candidates, former presidential candidate Bruno Ben Moumbamba left the country without obstruction.

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

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and the government has established a system for providing

protection to refugees. During the post-Omar Bongo Ondimba period, security forces commonly set up roadblocks and checkpoints where vehicles were searched. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. However, refugees complained about widespread harassment, extortion, and detention by security forces.

To reduce mistreatment of refugees, the government started replacing UNHCR-issued identity cards with government-issued ones. Steady progress continued on card issuance. Approximately 50 percent of refugees in the country who qualified had been issued new cards by the end of the year; an estimated 3,000 remained to be issued. This program, in conjunction with a UNHCR-led information campaign, helped reduce discrimination against refugees.

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

The constitution and law provide citizens the right to change their government peacefully, and citizens partially exercised this right in practice through periodic and generally fair elections.

Elections and Political Participation.—On August 30, the presidential election was held. This was the first election in 41 years in which former president Omar Bongo Ondimba was not a candidate. The election ballots listed 19 candidates. The election was marred by irregularities. The announced election results, which indicated Ali Bongo Ondimba had won the election with 41 percent of the vote, were contested in the Constitutional Court by numerous opposition candidates. Announced results indicated the two leading opposition candidates each received approximately 25 percent of the vote. There were numerous irregularities regarding voting lists, voter registration, late opening polls, improperly secured ballot boxes, and armed security personnel present in or near voting sites. On October 12, the Constitutional Court rejected a few hundred votes and validated Ali Bongo Ondimba's victory.

In April 2008 local elections were held under the previous administration to fill 1,190 municipal and departmental seats throughout the country. The ruling PDG won overwhelmingly, taking 96 percent of the seats. The independent electoral commission reported that only 25 to 30 percent of voters participated in the election, and independent observers estimated that the actual abstention rate was likely even higher. Polls did not open or close on time at several polling places, and elections in a handful of constituencies had to be rescheduled because of logistical and other problems. Approximately 70 candidates brought electoral challenges before the Constitutional Court following the elections, and the court reviewed and ruled on all of the contested seats by year's end.

The government is dominated by a strong presidency. When the legislature is not in session, the president can veto legislation, dissolve the national legislature, call new elections, and issue decrees that have the force of law. The legislature generally approved legislation presented to it by the president. The president appoints ministers of government and heads of parastatal companies.

A single party, the PDG, has remained in power since its creation by former president Omar Bongo Ondimba in 1968.

Women participated freely in the political process. Women held governmental positions from the ministerial level down and in all branches of government. Voting and political activism by women was common, and female voter numbers were increasing. There were six women in President Ali Bongo Ondimba's cabinet.

Members of all major ethnic groups continued to occupy prominent government positions; however, members of the president's Bateke ethnic group and other southerners held a disproportionately large number of key positions in the security forces.

Indigenous Pygmies rarely participated in the political process.

Section 4. Official Corruption and Government Transparency

Official corruption was widespread, and there was extensive media coverage of police abuses, particularly at checkpoints.

The most recent World Bank Worldwide Governance Indicators reflected that corruption was a severe problem.

The law makes official corruption an offense punishable under the law with fines and possible incarceration. The Commission Against Illegal Enrichment is the primary body responsible for combating official corruption.

On March 2, the country ratified the African Union convention on corruption deterrence. Throughout much of the year, the corruption laws were rarely used. However, the president made anticorruption efforts a major emphasis in the first months following his investiture.

New government initiatives reinforce laws regarding required reporting by officials holding public office, obliging them to declare their wealth within three months following appointment. The Commission Against Illegal Enrichment may ask them to resign if they do not do so. During the year the government instituted a National Day Against Corruption (December 9) and launched a media campaign to raise public awareness of the issue. At year's end the commission was carrying out 35 investigations, including 12 cases started during the year, involving government officials.

The anticorruption commission required civil servants to disclose their financial assets before assuming office; however, this requirement was not always followed in practice.

The law does not provide for public access to government information, and the government generally did not allow such access in practice.

In October President Ali Bongo Ondimba recalled and ordered the arrest of Philibert Andzembe, the governor of the Central Bank of Central African States, on corruption charges. The government arrested two other officials on the same corruption charges, although the charges against one were dropped. The other accused individuals were under house arrest at year's end. President Ali Bongo Ondimba's chief of staff resigned amid corruption charges associated with the scandal.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Some local human rights NGOs and activists operated without government restriction, investigating and publishing their findings. Government officials took no known actions on their recommendations.

There were no reports of the government restricting the work of international human rights and humanitarian NGOs, and the government worked closely and effectively with representatives of the UN, including the UN Children's Fund (UNICEF) and the UNHCR.

Local human rights NGOs included ALCR (combating ritual crime), Cri de Femmes (women's rights), EBANDO (pygmy rights), AVOGAB (women's and orphan's rights), Groupe Conscience (promoting sex workers' rights), Réseau de Défense des Droits Humains du Gabon (an association of human rights NGOs), and others. The government did not hinder the work of these domestic NGOs or restrict their right to voice their opinions.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Although the constitution and law prohibit discrimination based on national origin, race, gender, disability, language, or social status, the government did not enforce these provisions consistently.

Women.—Rape is against the law and carries a penalty of between five and 10 years' imprisonment; however, rape cases were seldom prosecuted. Rape was widespread. Only limited medical and legal assistance for rape victims was available. There are no provisions in the law regarding spousal rape.

The law prohibits domestic violence; however, it was believed to be common, especially in rural areas. Penalties for domestic violence range from two months to 15 years in prison. Police rarely intervened in such incidents, and women virtually never filed complaints with civil authorities. The government operated a counseling group to provide support for victims of abuse.

Although it is illegal, female genital mutilation (FGM) was believed to occur among the noncitizen Africans in the country; however, there were no specific reports of such practices during the year.

The law prohibits prostitution, and it was not a widespread problem. Penalties for soliciting a prostitute include from six months to two years' imprisonment and a fine of up to 1,068,221 CFA (\$2,200). Penalties for prostitution include jail for three months to one year and fines of up to 240,000 CFA (\$530).

There is no law that prohibits sexual harassment, and it was not a widespread problem. The government and NGOs reported cases of female domestic workers (often victims of child trafficking) who had been sexually molested by employers.

The government recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children.

During the year authorities repealed a parliamentary decree prohibiting the use of contraceptives. However, access to contraceptives was a problem, and many women had difficulty acquiring reliable contraceptives. Health clinics and local health NGOs operated freely in disseminating information on the use of contraceptives and family planning.

The government guaranteed free childbirth services, but health statistics from local NGOs, such as the Mouvement Gabonais Pour le Bien Etre Familial, showed

a high infant mortality rate of approximately 99 in 1,000 births. Maternal mortality was also high, with 500 deaths in every 100,000 deliveries.

Men and women received equal access to diagnosis and treatment for sexually transmitted infections. Local health NGOs and clinics reported 10 of 100 patients on average tested positive for HIV/AIDS.

The government offers limited access to social insurance to vulnerable or impoverished citizens through the National Fund for Health Insurance.

The law provides for equal rights and access for women in education, business, investment, employment, credit, and pay for similar work; however, women continued to face considerable societal and legal discrimination, especially in rural areas. While poor women frequently suffered discrimination, women among the educated urban population were treated more equally. Women owned businesses and property, participated in politics, and worked throughout the government and in the private sector.

Regulation requires that a woman obtain her husband's permission to travel abroad, although this regulation was very rarely enforced. Written authorization by both parents is required for minor children to travel outside the country.

Children.—Citizenship is conferred through one's parents and not by birth in the country. At least one parent must be a citizen to transmit citizenship.

Registration of all births is mandatory, but individuals frequently complained of late or nonexistent registration. However, the great majority of births were registered appropriately.

In general the government showed a commitment to children's rights and welfare. It publicly expressed its commitment to youth; provided 13,000 academic scholarships during the year; and used oil revenues to build schools, pay teacher salaries, and promote education, including in rural areas. However, there were numerous reports of shortages of classrooms and teachers in public schools. Education is compulsory until age 16 and was generally available through sixth grade.

There was some evidence of physical abuse of children. There were occasional reports of family members sexually abused girls who had passed puberty. When reports of abuse surfaced, accused abusers were arrested and tried.

Although it is illegal, FGM was believed to occur among the resident population of noncitizen Africans. Ritual crimes targeting children occurred and usually involved the amputation of limbs, genitals, or both. It is believed ritual crimes are tied to traditional religious practices. The Ministry of Justice was carrying out a study on ritual crimes, but in most cases ritual crimes were treated as criminal killings.

The age of consent and for marriage is 15 years of age for girls and 18 for boys. Child marriage is rare. The statutory rape law states that 15 years is the minimum legal age for a minor (of either sex) and an adult to have sex.

Children in the large community of noncitizen Africans continued to face serious problems, including child trafficking and other abuses.

According to the penal code, lewd pictures and photographs "against the morals of society" are outlawed. This law is used against pornography of all kinds. Punishment for the possession of pornography includes possible jail time from six months to one year, fines up to 222,000 CFA (\$460), or both.

Trafficking in Persons.—The law prohibits trafficking in persons; however, there were reports that persons, particularly women and children, were trafficked to the country. Internal trafficking from rural to urban areas occurred but remained difficult to quantify.

The law specifically prohibits child trafficking. The law criminalizes all forms of forced labor with penalties from one to six months and fines of 30,000 to 60,000 CFA (\$65 to \$130). Traffickers can face conspiracy charges, with penalties from six months to two years. No accurate statistics were available on the number of trafficking victims in the country, although most trafficking victims were from French-speaking West Africa (Cote d'Ivoire, Togo, Benin, and Senegal) and Nigeria.

The police and an interministerial committee composed of representatives from the labor, justice, foreign affairs, and family ministries were responsible for combating trafficking. The government also cooperated with UNICEF, the International Labor Organization, and diplomatic missions in the country to address trafficking.

The country was a destination for child trafficking, with victims trafficked primarily from Benin, Nigeria, Togo, Guinea, and Mali. Smaller numbers were trafficked from Sierra Leone, Burkina Faso, and Cameroon, although children were increasingly trafficked from other countries as well. Most arrived by boat and were trafficked to Libreville or Port Gentil. Boys were trafficked primarily for street hawking and forced labor in handicraft workshops, while girls were primarily trafficked for domestic servitude, forced market vending, restaurant labor, and commercial sexual exploitation. Nigerian children, in particular, were trafficked to the coun-

try to work in the informal commercial sector as mechanics. Trafficked children generally worked long hours, were subjected to physical abuse, received inadequate food, and received no wages or schooling.

The law provides for prison sentences for traffickers of five to 15 years' imprisonment and fines from 10 million to 20 million CFA (\$22,000 to \$44,000). However, the government's antitrafficking law enforcement efforts were mixed. The government made significant efforts to comply with minimum standards for the elimination of trafficking, including continuing its efforts to intercept and assist victims; however, the government did not show progress in convicting offenders. There were several arrests for trafficking offenses and, in some cases, prolonged detention of suspects. However, prosecution was infrequent, and the government did not report any trafficking convictions during the year. In November President Bongo Ondimba named a new head to the antitrafficking in persons court. Authorities required some suspected traffickers to pay the cost of repatriating trafficked victims to their countries of origin; however, the consequent absence of victims made successful prosecution of traffickers more difficult. The government assisted in cross-border trafficking prosecutions. The country is a member of the Economic Community of Central Africa's multilateral Cooperation Agreement to Combat Trafficking of Persons in West and Central Africa.

Government agencies, in cooperation with UNICEF, provided care for trafficking victims, in some cases through NGOs. The rights of labor trafficking victims were generally respected. Welcome centers were established for adult victims of trafficking; victims were no longer housed in jails.

UNICEF and the government sponsored a toll-free 24-hour assistance hotline for child trafficking victims, which arranged free transport to a victims' shelter. A government-funded reception center offered protection and assistance for trafficking victims, including food, education, medical care, and repatriation assistance. A second center, run by Carmelite nuns, provided similar services for older girls and young women.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—There are no laws prohibiting discrimination against persons with disabilities or providing for access to buildings or services; however, there were no reports of official discrimination against persons with disabilities. There was some societal discrimination against persons with disabilities, and employment opportunities and treatment facilities were limited.

Indigenous People.—Pygmies are the earliest known inhabitants of the country. Small numbers of Pygmies continue to live in large tracts of rainforest in the northeast. Most Pygmies, however, were relocated to communities along the major roads during the late colonial and early postindependence period. The law grants them the same civil rights as other citizens, but Pygmies remained largely outside of formal authority, keeping their own traditions, independent communities, and local decision-making structures. Pygmies suffered societal discrimination, often lived in extreme poverty, and did not have easy access to public services. Their Bantu neighbors often exploited their labor by paying them much less than the minimum wage. Despite their equal status under the law, Pygmies generally believed they had little recourse if mistreated by Bantu. There were no specific government programs or policies to assist Pygmies.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—There is no law criminalizing homosexual or transgender activity. Discrimination and violence occasioned by homosexual and transgender conduct was not a problem.

Other Societal Violence or Discrimination.—There was considerable discrimination against persons with HIV/AIDS. Local NGOs worked closely with the Minister of Health to combat both the associated stigma and the spread of the disease.

Section 7. Worker Rights

a. The Right of Association.—The law places no restrictions on the right of association and recognizes the right of citizens to form and join trade and labor unions; workers exercised these rights in practice. The small private-sector industrial workforce was generally unionized. Unions must register with the government to be recognized officially, and registration was granted routinely.

According to the Ministry of Labor, there were more than 136 unions. The ministry estimated there were 40,000 union members in total—10,000 in the public sector and 30,000 in the private sector.

The law provides workers the right to strike; however, they may do so only after giving eight days' advance notification and only after arbitration fails. Public sector

employees' right to strike is limited if a strike could jeopardize public safety. The law prohibits government action against individual strikers that abide by the notification and arbitration provisions.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without government interference, and the government protected this right. The law provides for collective bargaining by industry, not by firm. Collectively bargained agreements set wages for entire industries. Labor and management met to negotiate differences, with observers from the Ministry of Labor. Agreements negotiated by unions also applied to nonunion workers.

Discrimination on the basis of union membership is illegal. Employers who are found guilty by civil courts of having engaged in such discrimination may be required to compensate employees. Trade unions in both the public and private sectors often faced discrimination. Their demands or requests for negotiations were sometimes ignored or denied. Workers did not face termination due to trade union activity.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were unconfirmed reports that such practices occurred. Forced child labor occurred but was not a systemic problem. Boys were forced to work in local handicraft workshops; girls were primarily trafficked for forced domestic servitude, market vending, restaurant labor, and commercial sexual exploitation.

d. Prohibition of Child Labor and Minimum Age for Employment.—Although children below the age of 16 may not legally work without the express consent of the Ministries of Labor, Education, and Public Health, in practice child labor was a serious problem. According to the law, fines between 290,000 CFA to 480,000 CFA (\$640 to \$1,060) and prison sentences are appropriate punishments for violations of the minimum age for work. The ministries rigorously enforced this law in urban areas with respect to citizen children, and few citizens under the age of 18 years old worked in the formal wage sector; however, child labor occurred in rural areas, where the law was seldom enforced. Child prostitution occurred in the country.

An unknown number of children, primarily noncitizens, worked in marketplaces or performed domestic work; many of these children were reportedly victims of child trafficking. Such children generally did not attend school, received only limited medical attention, and were often exploited by employers or foster families. Laws forbidding child labor covered these children, but abuses often were not reported.

The constitution and labor code protect children against exploitation. The Ministry of Justice is responsible for implementing and enforcing child labor laws and regulations. Inspectors from the Ministry of Labor are responsible for receiving, investigating, and addressing child labor complaints. However, violations were not systematically addressed because the inspection force was inadequate, and complaints were routinely not investigated. The government viewed child labor and child trafficking as closely linked. Many victims of trafficking were children brought to the country and forced to work. Domestic servitude was a sector with an unusually high number of child laborers trafficked into the country. The government took no notable action to combat child labor.

e. Acceptable Conditions of Work.—The national monthly minimum wage is 80,000 CFA (\$172); government workers received an additional monthly allowance of 20,000 CFA (\$43) per child. Government workers also received transportation, housing, and family benefits. The law does not mandate housing or family benefits for private sector workers. The minimum wage did not provide a decent standard of living for a worker and family. The Ministry of Labor was responsible for enforcing the minimum wage standards and, in general, it did so effectively.

The labor code governs working conditions and benefits for all formal sectors and provides a broad range of protection to workers; however, the government sometimes did not respect these protections. According to the law, representatives of labor, management, and the government are required to meet annually to examine economic and labor conditions and to recommend a minimum wage rate to the president, who then issues an annual decree. This procedure has not been followed since 1994, partly because the government has been following a policy of wage austerity recommended by international financial institutions. There are various minimum wage rates depending on occupation or industry, but they have not been changed since 1994. There is no minimum wage applied to the informal sector.

The labor code stipulates a 40-hour workweek with a minimum rest period of 48 consecutive hours. Employers must compensate workers for overtime work.

According to the labor code and related decrees, the daily limit can be extended to perform specified preparatory or complementary work, including work necessary

to start machines in a factory; supervisors whose presence at the workplace is indispensable may also have hours extended. The additional time ranges from 30 minutes to two hours, depending on the type of work.

The daily limit does not apply to establishments in which work is performed on a continuous basis and those providing services that cannot be subject to a daily limit, including retail, transport, dock work, hotels and catering, housekeeping, guard services, other security, medical establishments, domestic work, and the press.

The daily limit can be extended for urgent work to prevent or respond to accidents. The additional hours are without limit on the first day and two hours on following days. The general limit for overtime is 20 hours per week.

Overtime compensation varies, since it is determined by collective agreements or government regulations.

Companies in the formal sector generally paid competitive wages and granted the fringe benefits required by law, including maternity leave and six weeks of annual paid vacation.

The Ministry of Health established occupational health and safety standards but did not enforce or regulate them. The application of labor standards varied from company to company and between industries. In the formal sector, workers may remove themselves from dangerous work situations without fear of retribution.

The government reportedly did not enforce labor code provisions in sectors where the majority of the labor force was foreign. Foreign workers, both documented and undocumented, were obliged to work under substandard conditions; were dismissed without notice or recourse; or, especially in the case of illegal immigrants, were mistreated physically. Employers frequently paid noncitizens less and required them to work longer hours, often hiring them on a short term, casual basis to avoid paying taxes, social security contributions, and other benefits.

THE GAMBIA

The Gambia is a multiparty, democratic republic with an estimated population of 1.86 million. In 2006 President Alhaji Yahya Jammeh was reelected for a third five-year term in an election considered partially free and fair. President Jammeh's party, the Alliance for Patriotic Reorientation and Construction (APRC), continued to dominate the National Assembly after elections held in 2007, which were also considered partially free and fair. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted independently.

Human rights problems included government complicity in the abduction of citizens; torture and abuse of detainees and prisoners, including political prisoners; poor prison conditions; arbitrary arrest and detention of citizens, including incommunicado detention; denial of due process and prolonged pretrial detention; restrictions on freedom of speech and press; violence against women and girls, including female genital mutilation (FGM); forced child marriage; trafficking in persons; child prostitution; discrimination against homosexual activity; and child labor.

RESPECT FOR HUMAN RIGHTS

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

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

In March Dodou Janneh, a police volunteer attached to the national drug enforcement agency, appealed the 2008 death sentence he received for the 2007 killing of Sheriff Minteh during a police raid in Serrekunda; the appeal was before the courts at year's end.

On April 3, the joint fact-finding team created by the UN and the Economic Community of West African States (ECOWAS) to investigate the 2005 deaths of more than 50 Ghanaians and other West African nationals in the country submitted a report of its findings. The report stated that "rogue elements" in the security services were responsible for the deaths and disappearance of the Ghanaians and recommended that the government pay compensation to the government of Ghana for the killings and exhume and return the bodies of six Ghanaians found buried in the Tanji forest. On October 18, the six bodies were returned to Ghana, according to Ghanaian media reports. While the government did not provide compensation, it paid for exhumation of the bodies and provided some funds to families of the victims.

b. Disappearance.—There were no reports of politically motivated disappearances; however, the government was complicit in the abduction of citizens suspected of witchcraft.

Between January and June, the BBC carried a series of reports on so-called “witchdoctors” from Guinea, who abducted up to 1,000 villagers in the Gambia during the same period, held them for several days, and forced them to drink an herbal concoction that resulted in illness and two deaths. There were unconfirmed reports that some villagers were subsequently forced to confess to being witches. Officials in the police, army, and the president’s personal protection guard reportedly accompanied the Guineans, who were invited into the country after the death of the president’s aunt, which was attributed to witchcraft, according to Amnesty International (AI). The Guineans, who were driven around in government vehicles, also conducted “cleansing rituals” in several government offices in Banjul, as well as in several other towns and villages. On May 19, in Brefet, President Jammeh said he had to “bring in witchdoctors to identify and eradicate witches,” who he said were responsible for underdevelopment in the districts of Foni, according to the governmental newspaper *The Gambia Daily*.

During an April 6 address to the National Assembly, the attorney general and justice minister denied that journalist “Chief” Ebrima Manneh, who was arrested by security forces in 2006 and subsequently disappeared, was in state custody. This was the government’s first statement regarding the June 2008 ruling by the ECOWAS community court of justice that Manneh’s detention had been illegal and that the government should release him and pay compensation of 2.7 million dalasi (\$100,000) to Manneh’s family. The ruling followed a lawsuit filed in 2007 by the Media Foundation for West Africa (MFWA), based in Ghana. In 2007 Manneh was reportedly sighted seeking medical treatment under police supervision at a hospital in Banjul, but his whereabouts remained unknown at year’s end.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution and law prohibit such practices; however, there were reports that security forces tortured, beat, and mistreated persons in custody.

There were no developments in the following 2008 cases of security force torture and abuse: the March stabbing by members of the police intervention unit of Amadou Sanyang; the June torture and beating of five residents of Lamin Daranka during their arrest and transfer to Yundum Police Station; and the torture over an 18-day period in September by members of the police criminal investigation division of Abdoulie Faye.

During his April trial for giving false information to a public officer, former National Assembly member Musa Suso alleged that while serving an earlier sentence (from 2000 to 2007), he was denied food and was tied and beaten for three days after a telephone calling card was discovered in his cell. On December 11, Suso was acquitted of some of the charges against him, but he was convicted of others and sentenced to 18 months in prison.

On June 30, the ECOWAS community court heard the case filed by the MFWA against the government for the 2006 illegal detention and torture of Musa Saidykhan, the editor in chief of the Independent newspaper. Saidykhan, who lived abroad in self-imposed exile, claimed that security forces applied electric shocks to his naked body during his 22-day detention; Saidykhan subsequently was released without charge. During the trial, which was ongoing at year’s end, the court’s three-member panel rejected the government’s claim that plaintiffs first had to exhaust legal remedies at the national level before appealing to ECOWAS. The trial was adjourned until February 2010.

The indemnity act continued to prevent victims from seeking redress in torture cases related to official actions taken by military personnel during military rule from 1994-96. The army requires victims to file formal complaints with the courts regarding alleged torture that occurred at other times. However, there were no known prosecutions in civil or military courts of security force members accused of mistreating individuals during the year. At the closing ceremony of a civil-military relations seminar in 2007, the chief of defense staff publicly announced a zero-tolerance policy for military abuse of civilians, and some reports indicated such abuse may have declined.

Prison and Detention Center Conditions.—Prison conditions were poor, and cells were overcrowded, damp, and poorly ventilated. Inmates complained of poor sanitation and food. Unlike in previous years, there were no reports that guards were reluctant to intervene in fights between prisoners. Local prisons were overcrowded, and inmates occasionally slept on the floor; however, prior to conviction, detainees were allowed to receive outside sources of food.

Prisoners at the Mile 2 Prison died during the year as a result of poor food and inadequate medical care.

On March 6, Benedict Jammeh, the former police inspector general, testified at Musa Suso's trial that inmates at Mile 2 Central Prison were fed with meat that resulted in the deaths of several prisoners; a committee of senior police officers subsequently confirmed the report. On May 8, David Colley, the director general of prison services, testified in the same trial that 23 inmates in 2006 and 40 in 2007 died in prison, primarily as a result of chronic anemia, abdominal pain, and food poisoning.

Pretrial detainees were occasionally held together with convicted prisoners. At year's end, there were 780 inmates in the country's prisons.

The government permitted limited independent monitoring of prison conditions by some local and international human rights groups and diplomatic missions; however, neither the media nor the International Committee of the Red Cross (ICRC) was granted access to detainees or prisoners during the year.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention; however, there were numerous instances of police and security forces arbitrarily arresting and detaining citizens.

Role of the Police and Security Apparatus.—The armed forces are responsible for external defense and report to the minister of defense, a position held by the president. The police, under the interior minister, are responsible for public security. The National Intelligence Agency (NIA) is responsible for protecting state security, collecting intelligence, and conducting covert investigations; it reports directly to the president. The NIA is not authorized to investigate police abuses, but during the year the NIA often assumed police functions such as detaining and questioning criminal suspects. Security forces frequently were corrupt and ineffective. On occasion security forces acted with impunity and defied court orders.

The police human rights and complaints unit receives and addresses complaints of human rights abuses committed by police officers from both civilians and other police officers. During the year the unit received several complaints, and some police officers faced disciplinary actions as a result.

Arrest Procedures and Treatment While in Detention.—The law requires that authorities obtain a warrant before arresting a person; however, in practice individuals were often arrested without a warrant. Periods of detention generally ranged from a few to 72 hours, the legal limit after which detainees must be charged or released; however, there were numerous instances of detention surpassing the 72-hour limit. Detainees generally were not promptly informed of charges against them. There was a functioning bail system; however, the courts occasionally released accused offenders on bail only to have police or other law enforcement personnel rearrest them as they were leaving the court. Detainees were not allowed prompt access to a lawyer or family members; convicted prisoners were generally permitted to meet privately with their attorneys. Indigent persons accused of murder or manslaughter were provided a lawyer at public expense.

Military decrees enacted prior to the adoption of the constitution give the NIA and the interior minister broad powers to detain individuals indefinitely without charge "in the interest of national security." These detention decrees were inconsistent with the constitution, but have not been subject to judicial challenge. The government claimed that it no longer enforced the decrees; however, there were several detentions during the year that exceeded the 72-hour limit.

Security forces arbitrarily arrested journalists during the year (see section 2.a.).

Security forces arbitrarily arrested and detained civilians and members of the military during the year.

On November 21, security forces arrested former chief of defense Lieutenant General Lang Tombong Tamba and six of his close associates and friends. Those arrested were Brigadier General Omar Bun Mbye, former military director of training and operations; Lieutenant Colonel Kawsu Camara, commander of the military camp in the president's home village of Kanilai; Captain Modou Lamin Bo Badjie, former NIA director general; Commissioner Momodou Gaye, deputy inspector general of police; private businessman and customs clearing agent Alhaji Kebba Touray; and real estate developer Abdoulie Joof. All were held without charge beyond the 72-hour limit. Kebba Touray, who was held at NIA headquarters, was released on December 15; however, the other six detainees remained in Mile 2 Prison without charge at year's end.

On December 30, NIA director Ousman Sowe was fired, arrested, and held incommunicado for several days. There were reports that he was accused of "delaying a document of national security interest." Sowe was being held without access to his family or lawyers at year's end.

On January 4, authorities released brothers Lamin Marong and Ebrima Marong, who were arrested in 2008 and held for three months without charge.

Bakary Gassama, the former financial director of the NIA, remained in detention at year's end. In December 2008 Gassama was released after three months in detention for alleged abuse of office, but was immediately rearrested.

During the year Gideon Adeoye, who was arrested in December 2008 for allegedly "spreading false information" about the country's military, was released.

Information surfaced on the incommunicado detention of four citizens. On June 10, Kemo Conteh, army Staff Sergeant Sam Kambai, NIA officer Kebba Seckan, and Samsudeen Jammeh were brought before a magistrate in Brikama, along with 12 Senegalese nationals from the southern Casamance region; the four citizens had been held for two to three years incommunicado on terrorism charges in an unknown location. Their trial, which began on August 27, continued at year's end.

Two of the detainees held after the disclosure of the 2006 abortive coup plot—Aliou Lowe, nephew of the fugitive coup leader and Abdoulie Njie—were still being held at Mile 2 Prison without charge, but their families were allowed access to them during the year. The trial of a third detainee, Hamadi Sowe, who was charged with concealment of treason, was ongoing at year's end.

Backlogs and inefficiency in the justice system resulted in lengthy pretrial detentions. Approximately 30 inmates in the prison system were in pretrial detention, and some had been incarcerated for several years awaiting trial. Several long-term detainees were released without charge or pardoned during the year.

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary; however, the courts, particularly at the lower levels, were corrupt and subject to executive pressure. AI noted that the presidential power to remove a judge, nominally in consultation with the Judicial Service Commission (JSC), impeded judicial independence. During the year the president removed two high court judges without consulting the JSC.

Judges presiding over "sensitive" cases who made decisions not considered favorable to the government risked being fired. For example, on June 8, the president dismissed Chief Justice Abdoukarim Savage without explanation. On June 23, the president also terminated the appointment of Justice Haddy Roche, regarded as an independent thinker in legal circles; Roche had been dismissed from the bench twice previously. Several judges were dismissed under similar circumstances in 2008.

Government and security forces often disregarded court orders to release suspects and rearrested them to provide the prosecution more time to prepare its case.

The judicial system consists of the Supreme Court, the Court of Appeal, high courts, and eight magistrate courts. Islamic, or Cadi courts, have jurisdiction over Islamic matters of marriage, divorce, and inheritance when Muslim parties are involved. District chiefs preside over local tribunals that administer customary law at the district level. Cadi courts and district tribunals do not offer standard legal representation to the parties involved, since lawyers are not trained in Islamic or customary law. Military tribunals cannot try civilians.

A judicial complaints board, chaired by the chief justice, heard several complaints during the year; the board deals with administrative, personnel, and case issues. Board members included the attorney general, the interior minister, the inspector general of police, the director general of the NIA, the master of the high court, and the judicial secretary.

Trial Procedures.—The constitution and law provide for a fair and public trial, and the judiciary generally enforced this right, although frequent delays and missing or unavailable witnesses, judges, and lawyers often impeded the process. Many cases were also delayed because of adjournments designed to allow the police or NIA time to continue their investigations.

Defendants are presumed innocent. Both civilian trials and courts-martial are held in public, but occasionally closed-court sessions are held to protect the identity of a witness. No juries are used in the civilian courts, but courts-martial proceedings are presided over by a judge advocate assisted by a panel of senior military officers. Defendants can consult with an attorney and have the right to confront witnesses and evidence against them, present witnesses on their own behalf, and appeal judgment to a higher court. Indigent defendants charged with murder or manslaughter have the right to attorneys provided at public expense. The law extends the above rights to all citizens, and no groups were denied these rights during the year; however, detainees were rarely informed of their rights or the reasons for their arrest or detention, according to AI.

The judicial system suffered from inefficiency at all levels. Cases continued to be delayed because the court system was overburdened. To alleviate the backlog, the government continued to recruit judges and magistrates from other commonwealth

countries that have similar legal systems. The attorney general oversees the hiring of foreign judges on contract. The government reserves the right not to renew a judge's contract.

The judicial system recognizes customary, Shari'a, and general law. Customary law covers marriage and divorce for non-Muslims, inheritance, land tenure, tribal and clan leadership, and other traditional and social relations. Shari'a was employed primarily in Muslim marriage and divorce matters; it favored men in its provisions. General Law, following the British model, applied to felonies and misdemeanors and to the formal business sector.

Political Prisoners and Detainees.—During the year there were credible reports that the government held civilians based on their political views or associations, and some were held incommunicado for prolonged periods.

United Democratic Party (UDP) supporter Kanyiba Kanyi, who was arrested by men believed to be state security agents and held without charge shortly before the 2006 presidential elections, remained in prison at year's end. The government has not permitted access to Kanyi by international humanitarian organizations or his lawyer. In May 2008 Kanyi's lawyer, who maintained Kanyi was being held by the NIA, filed an application to force the state to comply with the 2006 high court rulings to free him. On July 29, the judge presiding over the case returned the case file to the office of the chief justice in an apparent attempt to recuse himself from the trial; the judge provided no explanation for the return of the case file. Kanyi was reportedly sighted by a relative in March 2008 at the Royal Victoria Hospital, where he was being escorted by wardens from Mile 2 Central Prison.

The whereabouts of Chief Ebrima Manneh, who was also arrested without charge in 2006, remained unknown at year's end. The government denied Manneh was in its custody.

Civil Judicial Procedures and Remedies.—The high court has jurisdiction to hear cases for civil and human rights violations, although it may decline to exercise its powers if it is satisfied that adequate means of redress are available under other laws. The Indemnity Act continued to prevent victims from seeking redress in some cases.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and law prohibit such actions, but the government did not always respect these prohibitions in practice. The government did generally enforce Decree 45, which applies constitutional safeguards against arbitrary searches and the seizure of property without due process.

Observers believed the government monitored citizens engaged in activities that it deemed objectionable.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution and law provide for freedom of speech and of the press; however, the government limited these rights by intimidation, detention, and restrictive legislation. In a July 22 radio interview, President Jammeh warned that journalists who tarnished the country's image would be "severely dealt with." Although the independent press practiced self-censorship, opposition views regularly appeared in the independent press, and there was frequent criticism of the government in the private media.

The government published one newspaper, the *Gambia Daily*. The privately owned *Daily Observer* favored the government in its coverage. There were seven other independent newspapers, including one published by an opposition political party that remained highly critical of the government. There was one independent biweekly magazine.

One government-owned and nine private radio stations broadcast throughout the country. During most of the year, the government-owned Gambia Radio and Television Services (GRTS) gave limited coverage to opposition activities. GRTS television rebroadcast CNN, while local radio stations rebroadcast the BBC, Radio France Internationale, the Voice of America, and other foreign news reports, all of which were also available via shortwave radio. GRTS television, foreign cable, and satellite television channels broadcasting independent news coverage were available in many parts of the country, and the government allowed unrestricted access to such networks.

The deterioration of the country's media environment continued during the year. The government harassed journalists who wrote articles it considered inaccurate and investigated cases it considered sensitive. Several journalists reportedly went into hiding from fear of government retaliation.

Security forces arbitrarily arrested and detained numerous journalists during the year.

For example, on February 2, Pap Saine, co-proprietor and managing editor of the independent newspaper the Point was arrested and subsequently charged with publishing false information; Saine reported on the transfer of diplomat Lamin Sabi Sanyang from NIA headquarters to Mile 2 Prison and on the appointment of former minister Neneh Macdouall-Gaye to an ambassadorship. The high court withdrew the charge on July 29.

On March 8, police arrested Halifa Sallah, a former presidential candidate and the publisher of the newspaper Foroyaa, for allegedly trying to incite people to challenge “a lawful order of the president to screen witches”; Sallah had criticized the government-backed abduction of alleged witches during the year (see section 1.b.). On March 19, the director of public prosecution announced that all charges were being dropped “in the interest of peace and justice.”

On June 15, seven journalists were arrested for their role in the publication of a statement by the Gambia Press Union (GPU) responding to remarks by President Jammeh on the 2004 killing of newspaper publisher Deyda Hydara; the GPU characterized the president’s remarks as un-Islamic, inappropriate, and provocative. They added that such statements would not exonerate the government from involvement in the killing. On June 18, the court charged the journalists with three counts of sedition and seditious publication. On July 27, the court discharged one of the journalists for lack of evidence. On August 5, the remaining six journalists were convicted on all six counts and sentenced to two years in prison plus a fine of one million dalasi (\$37,037); failure to pay the fine would result in an additional two years’ imprisonment. On September 3, the six journalists were released following a pardon by President Jammeh, who said the gesture was in honor of the Muslim month of Ramadan.

On June 22, reporter Augustine Kanjia of the Point newspaper was arrested at Kanifing court for allegedly taking pictures of the six journalists charged with sedition and defamation. On June 24, Kanjia was released on bail.

On August 6, authorities arrested Abdoulie John, the deputy editor in chief and French language columnist of the progovernment Daily Observer, on charges of refusing to recognize the appointment of a new managing director of the paper; John was released the same day without charge.

The trial of Today proprietor and editor Abdul Hamid Adiamoh, arrested in July 2008 following the publication of a story about school children who skipped classes to salvage scrap metal, was ongoing at year’s end; Hamid Adiamoh was charged with publication with seditious intent.

Political activist Fatou Jaw Manneh, a foreign-based Gambian journalist who was convicted in August 2008 on sedition charges, departed the country after her family paid the 250,000 dalasi (\$9,260) fine.

Foreign missionaries David and Rachel Fulton, who in December 2008 pled guilty in a magistrate court in Banjul to advocating the violent overthrow of the government, remained in jail at year’s end serving a one-year sentence with hard labor. The two also were fined 250,000 dalasi (\$9,260) each, or in default to serve a further 18 months in prison. The Fultons had been under surveillance by court order, and were arrested in November 2008 for publishing “negative articles” and sending “negative letters” about the country and its government to individuals and organizations.

Journalist Lamin Fatty of the Independent newspaper, who in 2007 was convicted for publishing “false news” and fined 50,000 dalasi (\$1,850), went into self-imposed exile early in the year. He appealed his conviction, and the appeal was pending in the courts at year’s end.

In some cases journalists from certain independent newspapers were denied access to state-sponsored events and press conferences due to official disapproval of their editorial stance.

Internet Freedom.—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could generally engage in the peaceful expression of views via the Internet, including by e-mail. Although many citizens were illiterate and most did not have computers or Internet connections at home, Internet cafes were popular in urban areas. According to International Telecommunication Union statistics for 2008, approximately 6.8 percent of the country’s inhabitants used the Internet.

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

b. Freedom of Peaceful Assembly and Association.—The constitution and law provide for freedom of assembly and association, and the government generally respected these rights in practice. However, police sometimes denied or refused to issue permits to opposition parties wishing to hold political rallies.

The opposition UDP reported that police did not issue permits for a July 26 meeting in Serrekunda or an August 8 meeting in Bakau; the August 8 meeting was conducted without police permission.

On October 24, Femi Peters, the UDP campaign manager, was arrested after his party held a rally in Serrekunda without a police permit. On October 26, Peters appeared in court on charges of “control of procession and control of loudspeakers.” Peters refused to make a plea in the absence of his lawyer, and the case was ongoing at year’s end.

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

Societal Abuses and Discrimination.—There were no reports of societal abuse or discrimination based on religious affiliation, belief, or practice.

There was no known Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, but allow for “reasonable restrictions.” Restrictions were imposed on foreign travel for many persons released from detention, often because their travel documents were temporarily confiscated at the time of their arrest or soon afterwards. As a rule, all government employees were required to obtain permission from the office of the president before traveling abroad.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in to internally displaced persons, refugees, asylum seekers, stateless persons, and other persons of concern. The UNHCR coordinated government efforts with the International Organization for Migration, the Gambia Red Cross Society, and other agencies to provide this protection and assistance.

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

Protection of Refugees.—The country is a party to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol but maintains reservations on clauses regarding a number of refugee rights, including the right to work. It is also a party to the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. Neither the constitution nor the law provides for the granting of asylum or refugee status, but the government has established a system for providing such protection to refugees and granted refugee status during the year. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened.

In December 2008, consistent with international agreements, the UNHCR terminated the refugee status of Sierra Leoneans who fled during that country’s civil war. During the year the government and UNHCR provided local integration opportunities to the approximately 6,500 Sierra Leoneans remaining in the country. The government also facilitated the voluntary repatriation of 27 Liberian refugees.

Approximately 6,200 Senegalese refugees remained in the country during the year, pending conclusion of the Casamance conflict in Senegal. The UNHCR provided assistance with basic needs and services and implemented livelihoods programs.

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

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

Elections and Political Participation.—In 2006 Alhaji Yahya Jammeh was reelected for a third term as president, winning approximately 67 percent of the vote. The main opposition political party, the UDP, challenged the election results; however, the courts upheld the election results. In the 2007 National Assembly elections, the ruling APRC won 42 of the 48 elected seats, and President Jammeh appointed five nominated members, including the speaker. The presidential and National Assembly elections were declared partially free and fair; irregularities included underage voting, voting by noncitizens, and biased media coverage.

Individuals representing political parties or running as independents could freely declare their candidacy if their nominations were approved according to the rules of the independent electoral commission.

Political parties generally operated without restriction; however, police sometimes refused to issue permits for opposition parties to hold public meetings (see section 2.b.).

There were four women in the 53-seat National Assembly; two were elected and two were nominated by the president. At year's end there were five women in the 18-member cabinet, including the vice president.

No statistics were available on the percentage of minorities included in the legislature or the cabinet. However, President Jammeh and many members of his administration were from the previously marginalized minority Jola ethnic group.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively. The World Bank's worldwide governance indicators reflected that corruption was a serious problem.

The president often spoke against corruption, and leading political and administrative figures faced harsh sentences on charges of corruption and wrongdoing. The financial intelligence unit, which was established during the year, is responsible for combating corruption.

During the year the government prosecuted some officials accused of corruption. For example, on November 6, Lieutenant Colonel Gibril Bojang, former commander of the presidential guard, was convicted on charges of theft and sentenced to two years' imprisonment and a fine of 1,110,086 dalasis (\$41,100). Bojang, who pled as charged, said the money was not used for personal gain but for the welfare of his unit.

On November 4, six judiciary officials, including judicial secretary Haruna Jaitheh and high court judges Nguie Mboob-Janneh, Amie Saho-Ceesay, and Saffie Njie were suspended without pay on allegations of embezzlement of court fines, forfeitures, and auctions. The officials, who also included junior clerks Pa Modou Njie and Momodou L. Sonko, were charged with embezzlement totaling 4,232,000 dalasis (\$157,000). The trial was ongoing at year's end.

Public officials were subject to financial disclosure laws.

The constitution and law do not provide for public access to government information. Under the official secrets act, civil servants are not allowed to divulge information about their departments or to speak to the press without prior clearance from their department heads.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. Some members of domestic human rights groups reportedly practiced self-censorship in matters related to the government. Several groups expressed concern over detainees held incommunicado, but the government did not respond.

The government allowed visits during the year by the UN and other international governmental organizations, such as ECOWAS and the commonwealth secretariat; however, the government offered no response to reports issued after the visits. The government denied prison access to the ICRC during the year.

The office of the ombudsman operated a national human rights unit (NHRU) to promote and protect human rights and to support vulnerable groups. The office was established by the government and receives government funding. During the year the unit received complaints regarding unlawful dismissals, termination of employment, unfair treatment, and illegal arrest and detention.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on race, religion, gender, disability, language, or social status, and the government generally enforced these prohibitions.

Women.—The law prohibits rape, and the government enforced the law effectively, although rape remained a widespread problem. The penalty for rape of an adult is life in prison, and the maximum penalty for attempted rape is seven years' imprisonment. The law against spousal rape was difficult to enforce effectively, as many did not consider spousal rape a crime and failed to report it.

Domestic violence, including spousal abuse, was a widespread problem; however, it was underreported due to the stigma surrounding such violence. There was no law prohibiting domestic violence; however, cases of domestic violence could be prosecuted under laws prohibiting rape, spousal rape, and assault. Police generally considered reports of spousal rape to be domestic issues outside of their jurisdiction.

Prostitution is illegal; however, it was a major problem, particularly in tourist areas. The tourism offenses act prohibits sex tourism, which reportedly increased significantly during the year.

The law prohibits sexual harassment and provides for a one-year mandatory prison sentence for offenders; however, sexual harassment occurred.

The government did not interfere with the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children, and to have the information and means to do so free from discrimination, coercion, and violence. Couples and individuals had access to contraception and skilled attendance during childbirth, including essential obstetric and postpartum care. Women were equally diagnosed and treated for sexually transmitted infections, including HIV.

During the year the national reproductive and child health unit of the department of health and social welfare continued to implement a reproductive health campaign launched in 2007. The campaign, which was funded by the World Health Organization, was designed to encourage men to become involved with sexual and reproductive health issues. All maternal health care services were provided free of charge in government-run hospitals.

Traditional views of women's roles resulted in extensive societal discrimination in education; however, employment in the formal sector was open to women at the same salary rates as men. No statutory discrimination existed in other kinds of employment, access to credit, or owning and managing a business; however, women generally were employed in such pursuits as food vending or subsistence farming.

Shari'a law is applied in marriage, divorce, and inheritance issues for Muslims, who make up more than 90 percent of the population. Women normally received a lower proportion of assets distributed through inheritance than males. The churches concerned and the office of the attorney general settled Christian and civil marriage and divorce issues.

Marriages often were arranged and, depending on the ethnic group, polygyny was practiced. Women in polygynous unions had problems with property and other rights arising from the marriage. They also had the option to divorce, but no legal right to disapprove or be notified in advance of subsequent marriages. The women's bureau, under the office of the vice president, oversees programs to ensure the legal rights of women. Active women's rights groups existed.

Children.—Citizenship is derived by birth within the country's territory and from one's parents; however, not all births were registered. To access health care and treatment at public health centers, children were required to have a clinic card, which was available without birth registration.

The constitution and law mandate free, compulsory primary education from age six to 12, but the inadequate infrastructure prevented effective compulsory education, and children paid fees to attend school. During the year the government estimated that 75 percent of children were enrolled in primary schools. Another 15 percent were enrolled in the Islamic schools, called "madrassas." Girls constituted approximately 51 percent of primary school students and an estimated one-third of high school students. The enrollment of girls was low in rural areas, where poverty and cultural factors often led parents to decide against sending their daughters to school. As part of the government's ongoing initiative to increase the numbers of girls in school, the government continued a countrywide program to pay basic school fees for all girls; however, in many regions, both girls and boys were still required to pay for books, lunch, school fund contributions, and exam fees.

Authorities generally enforced laws when cases of child abuse or mistreatment were brought to their attention. Carnal knowledge of a girl under the age of 16 is a felony except in the case of marriage, which can be as early as 12 years of age. Incest also is illegal. Serious cases of abuse and violence against children were subject to criminal penalties.

On March 21, Anthony Michael Dobson, a 61-year-old New Zealand national, was convicted of child pornography and sentenced to one year in prison. Dobson was arrested in August 2008 and charged with child pornography and defilement of a girl under the age of 16; he was acquitted of the defilement charge. His Gambian accomplice, who was standing trial for procurement, was acquitted.

Peter Paul Hornberger, a German national who was arrested in November 2008 for "indecent assault" of an 11-year-old boy, remained in prison awaiting sentencing at year's end.

The law does not prohibit FGM, and the practice remained widespread. Between 60 and 90 percent of women have undergone FGM, and seven of the nine major ethnic groups reportedly practiced it at ages varying from shortly after birth until age 16. FGM was less frequent among the educated and urban groups. Some religious leaders publicly defended the practice. There were unconfirmed reports of health

complications, including deaths, associated with FGM; however, no accurate statistics were available. Several NGOs conducted public education programs to discourage the practice and spoke out against FGM in the media.

On September 29, more than 30 National Assembly members attended a seminar organized by the NGO Gambia Committee on Traditional Practices Affecting the Health of Women and Children (GAMCOTRAP) on the harmful effects of FGM. GAMCOTRAP said it was campaigning for a law banning FGM.

In May Vice President Isatou Njie-Saidy chaired an international conference calling for an end to FGM.

There are no laws against forced marriage, and in many villages, especially Bajakunda, young girls were forced to marry at a young age.

Children in prostitution worked in some brothels, often to support their families or because they were orphans. Some NGOs also believed that tourists living in remote guesthouses and motels were involved in the sexual exploitation of children. Security forces in the tourism development area were required to turn away all minors who approached the main resort areas without a genuine reason, although they seldom turned away such children.

Trafficking in Persons.—The law prohibits trafficking in persons for all purposes; however, persons were trafficked to, from, through, and within the country. The government considered trafficking to be a serious problem.

Due to its porous borders, the country was a destination for victims internationally trafficked from West African countries, mainly Senegal, Sierra Leone, Liberia, Ghana, Nigeria, Guinea Bissau, Guinea, and Benin. Trafficking victims often were found in the greater Banjul area and were used as street sellers, domestics, and sex workers. The country was also a point of origin and transit for West African trafficking victims destined for Europe.

The penalty for trafficking in children under the age of 18 is life in prison. Enforcement of the children's act is the responsibility of the various security services. The tourism security unit, a unit of the national army created specifically to enhance security in the tourism sector, is responsible for keeping minors out of resort areas. The minimum prison term for trafficking an adult is 15 years; a substantial monetary fine may also be imposed.

While the government had no established victim care and health facilities for trafficked persons, the Department of Health and Social Welfare provided temporary shelter and access to medical and psychological services to reported victims of trafficking.

The government's trafficking taskforce, which included representatives from government agencies, the UN Children's Fund, the National Assembly, and the NGO Child Protection Alliance finalized a national action plan for combating trafficking in persons in December 2008.

The Trafficking in Persons Act provides for a national antitrafficking agency; however, it had not been established by year's end. A dedicated officer for trafficking issues continued to operate at the Department of Justice, and the Department of Health and Social Welfare maintained a trafficking division. NGOs were active in raising awareness about trafficking.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—Although the constitution protects persons with disabilities against exploitation and discrimination, no government agency is directly responsible for protecting persons with disabilities. The Department of Health and Social Welfare dealt mainly with supplying some persons with disabilities with wheelchairs received from international donors. There was some societal discrimination. Persons with severe disabilities subsisted primarily through private charity. Persons with less severe disabilities were accepted fully in society, and they encountered little discrimination in employment for which they were physically capable. There were no laws to ensure access to buildings for persons with disabilities, and very few buildings in the country were accessible to them.

The government continued to remove many persons with disabilities from the streets in an effort to end street begging, which it viewed as a public nuisance. Leaders of the Gambia Federation of the Disabled urged authorities to review their policy regarding persons with disabilities. They were instrumental in obtaining the release of several detained beggars with disabilities.

The media continued to report on the rights of persons with disabilities, and several NGOs sought to improve awareness of these rights, including by encouraging the participation of persons with disabilities in sports and physical activities. The NHRU specifically sought to promote the rights of women with disabilities. Persons with disabilities were given priority access to polling booths on voting day.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The law establishes prison terms ranging from five to 14 years for any male that commits in public or private any act of gross indecency, procures another male, or has actual sexual contact with another male; however, to date, no one has been prosecuted. Many citizens shunned lesbian, gay, bisexual, and transgender (LGBT) individuals.

In a March 27 speech before the National Assembly, President Jammeh called homosexual conduct “strange behavior that even God will not tolerate.” The president previously described homosexual conduct as a criminal practice and told police to arrest persons practicing homosexual activity and to close motels and hotels that accommodated them. In May 2008 the president ordered all LGBT persons to leave the country within 24 hours and threatened to cut off their heads. There were no LGBT organizations in the country.

Other Societal Violence or Discrimination.—Societal discrimination against persons infected with HIV/AIDS hindered disclosure and resulted in rejection by partners and relatives. The government took a multisectoral approach to fighting HIV/AIDS through its national strategic plan, which provides for care, treatment, and support to persons living with, or affected by HIV/AIDS. The plan also protects the rights of those at risk of infection. In 2007 the national AIDS secretariat collaborated with the Chamber of Commerce and Industry to develop a business coalition response to HIV/AIDS, using workplace policies to destigmatize it and allow workers to feel comfortable seeking information. Public discourse about HIV/AIDS was ongoing during the year as President Jammeh continued his controversial herbal treatment program for the virus. Throughout the year the Ministry of Health urged persons to undergo voluntary HIV/AIDS counseling and testing.

Section 7. Worker Rights

a. The Right of Association.—The law provides that workers are free to form associations, including trade unions, without previous authorization or excessive requirements, and workers exercised this right in practice. Military personnel and police officers, as well as other civil service employees, were prohibited from forming unions. Unions must register to be recognized, but there were no cases in which registration was denied to a union that applied. Approximately 20 percent of the work force was employed in the modern wage sector, where unions were most active.

The government interfered with unions’ right to strike. The law allows for the right to strike, but it places restrictions on the right by requiring unions to give the commissioner of labor 14 days written notice before beginning an industrial action (28 days for essential services). The law specifically prohibits military personnel, police officers, and other civil service employees, from striking. Police and military personnel had access to a complaints unit, and civil servants could take their complaints to the public service commission or the personnel management office.

b. The Right to Organize and Bargain Collectively.—The law permits unions to conduct their activities without interference. Unions were able to negotiate without government interference; however, in practice they lacked experience, organization, and professionalism and often turned to the government for assistance in negotiations. The law allows workers to organize and bargain collectively, and although trade unions were small and fragmented, collective bargaining took place. Union members’ wages, which generally exceeded legal minimums, are determined by collective bargaining, arbitration, or agreements reached between unions and management. Most collective agreements are registered with the Department of Labor and remain valid for a period of three years before being renewed. The law also sets minimum contract standards for hiring, training, and terms of employment and provides that contracts may not prohibit union membership.

An employer may apply to a court for an injunction to prohibit industrial action that is deemed to be in pursuit of a political objective. The court also may forbid action judged to be in breach of a collectively agreed procedure for settlement of industrial disputes. The law prohibits retribution against strikers who comply with the law regulating strikes.

Employers may not fire or discriminate against members of registered unions for engaging in legal union activities, and the government intervened to assist workers whose employers fired them or discriminated against them.

There is a government-established export processing zone (EPZ) at the port of Banjul and the adjacent bonded warehouses. There are no special laws or exemptions from regular labor laws in the EPZ.

c. Prohibition of Forced or Compulsory Labor.—The constitution and law prohibit forced or compulsory labor, including by children; however, there were reports that

women and children were trafficked for forced commercial sexual exploitation (see section 6.).

d. Prohibition of Child Labor and Minimum Age for Employment.—Child labor was a problem, although the constitution prohibits economic exploitation of children under 16 years of age, and the law prohibits exploitative labor or hazardous employment of children under the age of 18. The act also sets the minimum age for light work at 16 years and for apprenticeship in the informal sector at 12 years. Most children completed their formal education by the age of 14 and then began work. Child labor protection does not extend to the performance of customary chores on family farms or petty trading. Child labor in informal sectors is difficult to regulate, and laws implicitly apply only to the formal sector. Rising school fees prohibited many families from sending their children to school, resulting in an increase in child labor. In urban areas some children worked as street vendors or taxi and bus assistants. There were a few instances of children begging on the street. The tourist industry stimulated a high level of child prostitution. Other sectors where children between the ages of 14 and 17 were known to work include carpentry, sewing, masonry, plumbing, tailoring, and auto repair. Children in rural areas worked on family farms. Unlike in previous years, there were almost no reports of Koranic students, known as “almudus,” being forced to beg in the streets; teachers who demanded this type of behavior were usually summoned by police and ordered to stop.

The Department of Labor is responsible for enforcing child labor laws and conventions on the worst forms of child labor. Employee labor cards, which include a person's age, were registered with the labor commissioner, who was authorized to enforce child labor laws; however, enforcement inspections rarely took place. The law incorporates International Labor Organization provisions outlawing child prostitution and pornography.

e. Acceptable Conditions of Work.—Minimum wages and working hours are established by law through six joint industrial councils, composed of representatives from labor, management, and the government. The lowest minimum wage according to law was 19.55 dalasi (\$0.72) per day for unskilled labor, but in practice the minimum wage was 50 dalasi (\$1.85) per day. The national minimum wage did not provide a decent standard of living for a worker and family. The minimum wage law covered only 20 percent of the labor force, essentially those in the formal economic sector, although most such laborers were paid above the minimum wage. Minimum wage laws also covered foreign and migrant workers. A majority of workers were employed privately or were self-employed, often in agriculture. Most citizens did not live on a single worker's earnings and shared resources within extended families. The Department of Labor is responsible for enforcing the minimum wage and it did so when cases of underpayment were brought to its attention.

The basic legal workweek is 48 hours within a period not to exceed six consecutive days. Nationwide, the workweek included four eight-hour workdays and two four-hour workdays (Friday and Saturday). There are no limits on hours worked per week and no prohibition on excessive compulsory overtime. A 30-minute lunch break is mandated. Government employees are entitled to one month of paid annual leave after one year of service. Most government employees were not paid overtime. However, government workers holding temporary positions and private sector workers received overtime calculated per hour. Private sector employees received between 14 and 30 days of paid annual leave, depending on length of service. There was no exception for foreign or migrant workers.

The law specifies safety equipment that an employer must provide to employees working in designated occupations. The law also authorizes the Department of Labor to regulate factory health and safety, accident prevention, and dangerous trades, and to appoint inspectors to ensure compliance with safety standards. Enforcement was inconsistent due to insufficient and inadequately trained staff. Workers may demand protective equipment and clothing for hazardous workplaces and have recourse to the labor department. The law provides that workers may refuse to work in dangerous situations without risking loss of employment; however, in practice authorities did not effectively enforce this right.

The law protects foreign workers employed by the government; however, it only provides protection for privately employed foreigners if they have a currently valid work permit. On April 3, the National Assembly passed an amendment to the payroll tax act, which requires that employers not hire noncitizens in excess of 20 percent of their workforce except in the specialized professional category. The move was designed to encourage employers to train and employ more local citizens.

GHANA

Ghana is a constitutional democracy with a strong presidency and a unicameral 230-seat parliament. The population is over 23 million. In the December 2008 election, the opposition National Democratic Congress (NDC) won both the presidency and a small majority in the parliament, marking the country's second successful peaceful transition of power between political parties. Domestic and international observers determined that the election was generally free and fair. Professor John Evans Atta Mills was inaugurated as president, and the new parliament convened on January 7. While civilian authorities generally maintained effective control over security forces, there were some instances in which elements of the security forces acted independently of government authorities.

There were deaths resulting from the excessive use of force by police; vigilante violence; harsh and life-threatening prison conditions; police corruption and impunity; prolonged pretrial detention; forcible dispersal of demonstrations; corruption in all branches of government; violence against women and children, including female genital mutilation (FGM); societal discrimination against women, persons with disabilities, homosexual persons, and persons with HIV/AIDS; trafficking in women and children; ethnic discrimination and politically and ethnically motivated violence; and child labor, including forced child labor.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed political killings; however, use of excessive force by security forces resulted in the deaths of several criminal suspects and other persons during the year. In July and August police in various jurisdictions shot and killed 15 suspected armed robbers. Police claimed self-defense to justify the shootings.

In August 2008, two soldiers and a policeman were acquitted of the 2007 murder of a minibus driver in Suhum following his arrest. The Ministry of Interior set up a committee to investigate the death. The committee recommended compensation for the victim's family and disciplinary action against the leader of the patrol team.

As in previous years, chieftaincy disputes resulted in deaths, injuries, and destruction of property.

On February 4, two persons were killed in the Northern Region in a land dispute between rival clans. In a separate incident in the same region, one person died and 69 houses were burned on February 6 in a dispute over ownership of a parcel of land. Police were called in to restore order. At year's end there was no new information on these cases.

On July 25, the Anloga chieftaincy dispute in the Volta Region became violent when a mob broke into the chief's residence and burned his property. One arsonist died. The 18 policemen called to the scene were unable to prevent the riot.

In Bawku, in the Upper East Region, an ongoing chieftaincy and ethnic dispute led to violent outbreaks in January, March, April, May, June, September, and November. The violence caused an estimated 15 deaths, including the Bawku district director of the Commission on Human Rights and Administrative Justice, and the destruction of property. The military and police were deployed to the region and the municipality was placed under curfew following the outbreaks. The curfew fluctuated and in December was daily from midnight until 5:00 a.m. Sixteen persons were arrested on violence-related charges. At year's end there was no new information on the cases.

In August two men were killed at the Kokomba Yam Market in the Agbogbloshie section of Accra following clashes between rival ethnic groups that have been locked in a chieftaincy dispute in the Northern Region since 2002. In September an additional three persons were killed as a result of the same dispute. At year's end there was no new information on these cases.

Mob action sometimes led to deaths. In March a mob in Accra beat a man for stealing a mobile phone. He died from injuries sustained trying to escape.

In May a woman was beaten to death near her village of Viepe, in the Volta Region, for allegedly stealing a piece of cloth.

On July 25, two suspected armed robbers were lynched by a mob in Latebiokorshie, an Accra suburb. On July 29, a man was lynched in Adisadel Estate, a suburb of Cape Coast. The motive was unknown.

In August one person was beaten to death by unknown assailants after taking part in a demonstration against the detention by the Bureau of National Investigations (BNI) of the former minister of information.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution and law prohibit such practices; however, there were credible reports that police beat and abused suspects, prisoners, demonstrators, and other citizens. Severe beatings of suspects in police custody reportedly occurred throughout the country but largely went unreported in official channels. In many cases, police denied allegations or claimed that force was justified by the circumstances.

The many cases of police brutality leading to deaths during the year led several NGOs, lawyers, and civil society organizations to publicly denounce the tendency of police to use excessive force and to call for the Inspector General of Police (IGP) to take action against those responsible.

On January 2, military police shot and wounded a man while he was riding a motorcycle with friends in a small coastal town. The man, resident in a foreign country, was in Ghana for a visit. Police stated that the bike was unregistered and was the type used by criminals. The police launched an investigation. At year's end there was no new information on the case.

In March the Paramount Chief of the Goaso traditional area in the Brong Ahafo region ordered his men to beat with canes a 28-year-old woman for not kneeling before him. When the victim reported the incident to the police, the police refused to accept the complaint and detained the victim and her mother without charges. They were later released.

On August 8, in Osu, Accra police shot the 18-year-old son of a former member of parliament in the leg outside a nightclub as he was leaving the venue with friends. Police have not determined a motive for the shooting. Two hospitals denied the victim medical treatment because he did not have a police report, a prerequisite for treating such cases. A third hospital treated him. At year's end there was no new information on the case.

In November a video clip and still photos were released to the media depicting military personnel in Bawku (Upper East Region) interrogating and abusing two naked civilian suspects. Still photos showed a soldier kicking a suspect and placing the tip of his gun in a suspect's mouth. Earlier media reports accused the soldiers of stripping the suspects and parading them through the township following their arrest. The suspects were detained by military personnel for alleged involvement in sporadic shooting in the Natinga area of Bawku. According to the National Peace Council, the Military High Command questioned the Bawku unit commander and launched an inquiry into the incident.

In May nine persons were wounded in the Central Region in a chieftaincy dispute clash.

On May 14, violence erupted in the Western Region as a result of a dispute between two rival chiefs over the sale of a parcel of land. The dispute was resolved when the land owner offered a second parcel of land for sale.

Vigilante-style justice conducted by angry citizens and mobs against suspected criminals and persons accused of witchcraft resulted in deaths and injuries.

In February a mob of youths robbed and beat workers at a school building site in greater Accra then burned the building in protest against the construction of the school on a playing field.

Prison and Detention Center Conditions.—Prison conditions generally were harsh and sometimes life-threatening. Much of the prison population was held in buildings that were originally colonial forts or abandoned public or military buildings, with poor ventilation and sanitation, substandard construction, and limited space. Many prisoners had to sleep on bare floors or take turns using beds. According to the 2008 Prisons Service Annual Report, 14,128 prisoners (average daily lockup) were held in prisons designed to hold approximately one-third that number. There were 276 female prisoners and 118 juveniles. It was common for as many as 55 inmates to share a cell intended for 12. Overcrowding contributed to the prevalence of communicable diseases, medical facilities were inadequate, and the prisons supplied only the most basic medicines. Prisoners relied on families or outside organizations for additional food, medicine, and other necessities. Shortages of food, bedding, clean water, and clothing for prisoners persisted.

In September a delegation of the Commission on Human Rights and Administrative Justice (CHRAJ), an independent government commission that investigates human rights abuses, corruption, and abuse of power, visited the Nsawam Medium Security Prison. The prison was built in 1960 to accommodate 717 inmates and now has a population of 2,883, including 1,549 prisoners awaiting trial. During the visit, the deputy director of the prison said that the "Justice for All" program introduced in 2008, which was intended to accelerate the judicial process and ease overcrowding in prisons, had resulted in the release of only 15 inmates.

Of the prisoners awaiting trial, police acknowledged that they were not able to locate files for approximately 300 since at least 2007. This ostensibly was due to the transfer and retirement of prosecutors and investigators. The detainees were being held at Nsawam Prison while prison officials, courts and the police rebuild the cases.

In 2008 107 prisoners died while in custody. The most common causes of death were TB, HIV/AIDS, and liver failure. In May the Inspector General of Police suspended two officers following the death of a 59-year-old man who was in custody in the Tesano District following a police raid looking for suspected criminals. Police promised an investigation. The deceased's brother claimed that the victim was arbitrarily arrested. In August a suspected drug courier died in the police hospital in Accra after pellets of heroin in his stomach burst. At year's end, there was no new information on these cases.

Pretrial detainees were held with convicted prisoners.

d. Arbitrary Arrest or Detention.—The constitution and law provide for protection against arbitrary arrest and detention; however, the government did not always observe these prohibitions.

Role of the Police and Security Apparatus.—The police, under the jurisdiction of a 10-member Police Council, were responsible for maintaining law and order. The military continued to participate in law enforcement activities during the year. The Ghana Police Service is within the Ministry of Interior. A separate entity, the BNI, handled cases considered critical to state security and answered directly to the Ministry of National Security. The police maintained specialized units in Accra for homicide, forensics, domestic violence, trafficking in persons, visa fraud, narcotics, and cybercrimes. However, there were significant barriers to extending such services nationwide, including a lack of office accommodation, police vehicles, and equipment outside of the capital. In June the vice president criticized BNI agents for failing to identify themselves before making arrests. The criticism was based on complaints from members of the former government after the BNI approached them for questioning. In September the BNI lost a court appeal to keep the passport of a former foreign minister under investigation for corruption. The former minister claimed that the loss of his passport was a breach of his fundamental freedom of movement. The former foreign minister was indicted on corruption charges in October.

The police service was criticized repeatedly for incidents of police brutality, corruption, and negligence. Impunity remained a problem. Delays in prosecuting suspects, rumors of police collaboration with criminals, and a widespread perception of police ineptitude contributed to an increase in vigilante violence during the year. There were also credible reports that police extorted money by acting as private debt collectors, by setting up illegal checkpoints, and by arresting citizens in exchange for bribes from the arrested persons' disgruntled business associates.

Government officials stated that the policy of zero tolerance for corruption applied to police and other security officials; however, low salaries, which were sometimes not paid on time, contributed to the tendency of individual law enforcement officials to demand bribes.

Officials of the Ghana Highway Authority (GHA) were accused of extorting money from drivers to allow them to cross a major bridge with overloaded vehicles endangering the structural security of the bridge. In June six policemen including a deputy superintendent of police and a chief inspector went on trial for robbing a businessman of 76,000.00 cedis (\$53,000). In November the six policemen were found guilty and each received a 20-year jail sentence. The 33-person Police Intelligence and Professional Standards Unit (PIPS) investigated human rights abuses and police misconduct. From January through September PIPS received 883 new cases, compared with a total of 491 in 2008. The investigation of 468 cases were completed, and 415 cases remained under investigation. At year's end, PIPS was investigating 83 complaints of harassment, unlawful arrest, and detention with human rights violations, compared with 134 in 2008 and 149 in 2007.

Arrest Procedures and Treatment While in Detention.—The constitution and law provide for protection against arbitrary arrest and detention; however, the government did not always observe these prohibitions. The constitution provides that a detained individual should be informed immediately, in a language that the detainee understands, of the reasons for the detention and of his or her right to a lawyer and an interpreter at state expense. In most cases, lawyers were assigned promptly, although there were instances of delays. The law requires judicial warrants for arrest and provides for arraignment within 48 hours. The law requires that a detainee who has not been tried within a "reasonable time" as determined by the court be released either unconditionally or subject to conditions necessary to ensure that the person will appear in court at a later date. The law also provides for bail. In prac-

tice, however, many abuses of these rights occurred, including detention without charge for periods longer than 48 hours, failure to obtain a warrant for arrest, and detention of prisoners for indefinite periods by renewing warrants or by simply allowing them to lapse while an investigation was conducted.

Police conducted anticrime patrols dubbed “Operation Calm Life” arresting individuals suspected of being criminals. Members of the patrol which killed eight armed robbers in a shoot-out in Kumasi in August received cash rewards from the Police Service. Authorities routinely failed to notify prisoners’ families of their incarceration; such information often was obtained only by chance. The court has unlimited discretion to set bail, which was often prohibitively high. The court may refuse to release prisoners on bail and instead detain them without charge for an indefinite period, subject to weekly review by judicial authorities. On occasion, police also demanded money from suspects as a precondition for their release on bail.

Lengthy pretrial detention remained a serious problem. According to the Prisons Service’s 2008 Annual Report, 30.5 percent of the prison population was in pretrial status, down from 31.55 percent in 2007. Detainees sometimes served more time in detention awaiting trial than the sentence for the crime required.

CHRAJ reported that one inmate at Nsawam Prison has been in detention for 17 years. In another case, a woman was granted bail in January after 37 months in detention. A male arrested in the same case was granted bail after six months. No further information was available on these cases at year’s end.

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary; however, the judiciary was inefficient and subject to influence and corruption (see Section 4).

The law establishes two basic levels of courts: the lower courts and the superior courts. The lower courts consist of the circuit and district courts, which also serve as juvenile courts and family tribunals. These courts try civil cases involving 5,000 cedis (\$3,500) or less; and criminal cases for offenses punishable by a fine not exceeding 1,000 cedis (\$700), imprisonment for a term not exceeding two years, or both. The superior courts consist of the Supreme Court, the Appeals court, the High court, the Commercial court, regional tribunals, and fast-track courts. Fast-track courts hear cases to conclusion within six months. The majority of cases filed before the fast track courts involved banking and commercial matters, human rights, and defamation.

Members of the military were tried separately under the criminal code in a military court. There were no military tribunals separate from the military court system. Military courts were not permitted to try civilians. Military courts provide the same rights as civil courts.

The Judicial Service has made efforts to mainstream alternate dispute resolution (ADR) procedures in order to decongest the courts and to address judicial inefficiency. Mediators have been trained throughout the country to implement ADR and mediation desks have been established in some district courts. An ADR secretariat was established within the Judicial Service.

The Chieftaincy Act gives village and other traditional chiefs the power to mediate local matters and enforce customary tribal laws dealing with such matters as divorce, child custody, and property disputes. However, the authority of traditional rulers has steadily eroded because of a commensurate increase in the power of civil institutions, such as courts and district assemblies.

A judicial complaints unit, headed by a retired Supreme Court justice, addressed public complaints. During 2008 the unit received 416 complaints, of which 109 were resolved and 300 were under investigation at year’s end.

Trial Procedures.—The constitution and law provide for the right to a fair trial, and the judiciary generally enforced this right. Defendants are presumed innocent, trials are public, and defendants have a right to be present, to be represented by an attorney (at public expense if necessary), and to cross-examine witnesses. Defendants and their attorneys have access to government-held evidence relevant to their cases and have a right to appeal. Defendants have the right also to present witnesses and evidence. Juries are used in murder trials. The law extends the above rights to all citizens. In practice, authorities generally respected these safeguards. The constitution provides for the right to a fair trial, and the judiciary generally enforced this right.

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

Civil Judicial Procedures and Remedies.—There is an independent and impartial judiciary in civil matters, and citizens had access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation.

Fast-track courts and automated commercial courts continued to try to improve access to justice and to streamline resolution of disputes. A growing number of automated courts, whose proceedings were expedited through electronic data management, were established across the country.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and law prohibit such actions; however, in practice the government sometimes infringed on privacy rights. Although the law requires judicial search warrants, police seldom obtained them in practice.

Opposition politicians claim they were harassed by government institutions for partisan reasons.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution and law provide for freedom of speech and of the press, and the government generally respected these rights in practice.

Individuals criticized the government publicly without reprisal.

The independent media were active and expressed a wide variety of views without restriction.

There were an estimated 70 newspapers and almost 200 FM radio stations across the country. The most wide-reaching print, radio, and television outlets were state-owned.

There were at least eight reports that police arrested, detained, or used excessive force against members of the media. On February 12, two female sports journalists were assaulted by police while trying to gain access to the players' dressing room following a football (soccer) match. Both reporters had press credentials. On August 5, police arrested and detained the regional editor of Metro TV, an independent station, after he entered a court room to witness a rape trial. Police had prevented him from filming the suspect the day before. The journalist was released, and the police apologized.

On September 17, police briefly closed an independent radio station in the Northern Region owned by a former vice president. The station was closed in connection with a chieftaincy dispute after it broadcast a press conference by the regent of a disputed territory. The regent called the press conference to explain that he walked out of a recent town hall meeting because he was made to sit with "ordinary" persons while another chief was seated with government ministers. The regional police commander ordered police to close the station. Station staff were arrested and detained for several hours. The station was back on air the following day.

In February the director general of the state-owned Ghana Broadcasting Corporation gave a cease transmission order, thus cutting off the broadcast of a live program following a complaint of bias against the ruling NDC party made by the NDC communications chairman. The panel of one NDC and two opposition National Patriotic Party (NPP) members was discussing the president's state of the union address. The director general stated that the composition of the panel was not in the best interest of the station.

On April 11, an Upper East Regional correspondent for the Accra-based newspaper *The Chronicle* was assaulted by supporters of the ruling NDC for photographing party activity. They also destroyed his digital camera. The editor in chief of *Today*, an independent anti-government daily, reported receiving threatening messages on his cell phone. No arrests were made or charges filed.

On May 28, a group of NDC supporters besieged a privately owned FM radio station in the Brong Ahafo Region, attacking three persons and vandalizing the station.

Internet Freedom.—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. The Internet was accessible in Accra and other large cities, but there was limited access in other parts of the country. According to International Telecommunication Union statistics for 2008, approximately 4.27 percent of the country's inhabitants used the Internet.

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

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The constitution and law provide for freedom of peaceful assembly; however, at times the government restricted this right. The government does not require permits for demonstrations, but police can deny use of a particular route.

In June police obtained a court order to prevent an antigovernment demonstration from taking place on the grounds that they would not be able to control the crowd. The demonstration was held peacefully in August.

In October the Oda Youth Association in the Eastern Region planned a demonstration to protest against the government for perceived neglect of the district. According to the association, on October 26 they wrote to the local police informing them of their intention to hold a protest, but that evening the president of the group was called into the regional BNI office and questioned about his plans. The next day, the local police commander informed the Association that their demonstration would be not be permitted.

At the end of the year, there was no progress on the 2007 case in which police forcibly dispersed boycotting students at Takoradi Polytechnic Institute arresting 64 in connection with the rioting. The ban on campus demonstrations remained in effect, although it was not further challenged by students. There was no more information available on this case at year's end.

Freedom of Association.—The constitution and law provide for freedom of association, and the government generally respected this right in practice. Members of security forces were prohibited from joining political assemblies or groups within the security services, but they were allowed to participate in political activities outside police or military compounds.

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

Some Muslims claimed political and social exclusion because of the pervasiveness of Christianity in many aspects of society. Factors such as the frequency of Christian-oriented prayers in public settings and the ubiquity of Christian slogans contributed to this perception of marginalization and discrimination.

Muslim students generally enjoyed religious freedom in public schools. However, despite official policies promoting free religious practices, Muslim students complained that school administrators occasionally failed to accommodate students' religious obligations when regulating school attire or scheduling examinations on holy days.

Trokosi, a practice indigenous to the southern Volta region, involves pledging family members, most commonly female teenagers, to a period of service from a few months to three years at a local shrine. Trokosis helped with the upkeep of these shrines and poured libations during prayers. Government agencies, such as the governmental Commission on Human Rights and Justice (CHRAJ), and some NGOs have at times actively campaigned against Trokosi, although local officials portrayed it as a traditional practice that was not abusive. Supporters of traditional African religions, such as the Afrika Renaissance Mission regarded these campaigns against Trokosi as religious persecution.

Societal Abuses and Discrimination.—There were no reports of societal abuses or discrimination based on religious belief or practice; however, there were occasional reports of interreligious and intrareligious friction during the year.

The Jewish community had a few hundred members. There were no reports of anti-Semitic acts.

The government often took steps to promote interfaith understanding during the year.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The law prohibits forced exile, and the government did not use it.

The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 protocol, the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa, the 1954 Convention on Stateless Persons and the 1961 Convention on the Reduction of Statelessness. In practice, the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. Its laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

The government established the Ghana Refugee Board (GRB) to adjudicate claims for refugee status and to ensure that refugees receive all appropriate protections. The Office of the UN High Commissioner for Refugees (UNHCR) participated as an observer on the refugee board. The country cooperated with UNHCR and other humanitarian organizations in providing protection and assistance to refugees and asylum seekers. The law allows rejected asylum seekers to appeal and remain in the country until the appeal is adjudicated; however, there were some reports of delays

in the appeal process. The minister responsible for adjudicating appeals did not make a decision on any appeals. The law also accords the right of protection to refugees who entered the country illegally without documentation.

As part of the transition to a new government, the GRB was dissolved in January. As of September, with the exception of a chairman, new members of the board were nominated, but the new GRB had not convened by year's end. While the GRB secretariat continued some functions such as conducting refugee interviews, there were no board meetings to adjudicate claims or confer refugee status.

Refugee status for Sierra Leoneans who fled during that country's civil war was terminated as of the end of 2008 in accordance with international agreements. The GRB and the UNHCR conducted interviews to determine if any of the Sierra Leoneans remaining in Ghana qualified as refugees based on an individual need for international protection. A total of 134 individuals went through the process, and the GRB issued decision letters to all concerned. Individuals who were rejected have filed appeals to the minister of the interior.

Refugees enjoy freedom of movement within Ghana and were not required to always carry identification. Refugees were allowed to apply for work permits through the same process applicable to other foreigners. However, work permits generally were issued only for employment in the formal sector, and the majority of refugees worked in the informal sector. Refugee children have access to public primary schools. Refugees in the Krisan camp, Buduburam settlement, and the Volta region have been enrolled in the national health insurance scheme (with funding from UNHCR), providing access to public health care. Urban refugees have access to health care on a fee-for-service basis.

In March 2008 the governments of Liberia and Ghana, and the UNHCR formed a tripartite committee to facilitate the safe and voluntary return of Liberians. From April 2008 to March 31, the UNHCR, with the support of the government of Ghana, facilitated the voluntary return of 9,294 Liberians. A UNHCR verification exercise concluded that 11,062 Liberian refugees remained in Buduburam. During the same timeframe, the UNHCR facilitated the voluntary repatriation of 4,383 Togolese. Some 1,200 refugees of various nationalities remained in the Krisan camp, 4,000 Togolese refugees and asylum seekers remained in the Volta region, and 1,600 lived in greater Accra. Some 3,000 Liberian refugees and asylum seekers resided outside the Buduburam settlement.

During the year the UNHCR conducted an exercise to verify the number and nationalities of the refugees and asylum seekers residing in urban areas. Sexual and gender-based violence remained a problem among refugee populations. The physical insecurity of refugees living in camps contributed to their vulnerability. In the Buduburam settlement, one case of defilement and 23 domestic violence cases were reported to the Women's Initiative for Self-Empowerment (WISE), UNHCR, and the police during the year. The survivor of the defilement could not identify the perpetrator, so no arrest was made. No prosecutions were initiated in any of the domestic violence cases.

In June a man was convicted of sodomizing a child in 2007 and sentenced to five years' imprisonment. With the support of the UNHCR, the police force opened a police post on the Buduburam settlement in July. In the Krisan refugee camp six cases of physical child abuse and three of domestic violence were reported. One of the defilement cases reported in 2008 had been referred to the district court last year and was still pending.

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

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

Elections and Political Participation.—After two unsuccessful bids for the presidency, John Evans Atta Mills, the NDC party candidate, was inaugurated as president in January following a narrow victory over the NPP candidate, Nana Akufo-Addo, in December 2008. The December 2008 elections also gave the NDC 115 seats, the NPP 108, minor parties three, and independents four seats in the new parliament. The December 2008 elections were generally peaceful and transparent. Activities at polling stations were observed by party agents and thousands of domestic and international observers. There were reports in some areas of voter intimidation and election irregularities, particularly in the regions of the country where the two main parties have their bases of support. However, the consensus of observers and the independent Electoral Commission was that these irregularities were insufficient to have altered the outcome of the election.

During the preelection period there were some incidents that involved violence. In September 2008 there were violent clashes in Gushiegu District in the Northern Region between NPP and NDC supporters when they attempted to erect campaign flags in the same location. The clashes resulted in six deaths and the burning of houses and vehicles. Also in September 2008 an NPP rally in Tamale was disrupted by gunfire, forcing the party's vice presidential candidate to flee. The incident led to attacks on NDC supporters returning from their own rally, and in the destruction of houses and vehicles.

In August 2008 the Electoral Commission conducted an exercise to update the voter registry, generally for persons who had turned 18 since the last update in 2006. The exercise was marked by long lines and shortages of registration materials. Media reports and accusations by political party representatives described efforts to register underage persons and to transport persons into areas to facilitate multiple registrations. In October 2008 the Electoral Commission (EC) published revised voter lists with duplicate names removed, and allowed public review in each constituency of the revised list.

There are no laws preventing women from voting or participating in political life on the same basis as men, but traditionally, women have much less access to leadership positions than men. There were 20 women in the 230 seat parliament, and 38 ministers of whom eight were women. There were four women in the cabinet, and five women on the Supreme Court.

There are no laws, cultural or traditional practices that prevent minorities from participating in political life on the same basis as other citizens. According to the 2000 Population Census, Ghana has more than 80 ethnic groups, each of whom constitutes a minority. For example, the Ashanti were the largest ethnic minority with 14.8 percent of the total population.

Section 4. Official Corruption and Government Transparency

Corruption in the executive, legislative, and judicial branches continued to be a problem. The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials frequently engaged in corrupt practices. CHRAJ was charged with investigating alleged violations of human rights, including corruption of public officials, and taking action to remedy proven violations. The attorney general, the minister of justice, and the Public Prosecutor's Office were responsible for combating corruption. Parliament's Public Accounts Committee is also responsible for auditing government spending. An auditor general reviews public sector accounts. The Serious Fraud Office is an independent government body that investigates corruption. Officials were subject to a financial disclosure process, but their responses were not available for public review. The World Bank's most recent Worldwide Governance Indicators (2008) reflected that corruption was a problem.

President Mills has stressed the need to combat corruption. Soon after taking office, the minister of youth and sports, Alhaji Mohammed Muntaka Mubarak, was forced to resign after being accused of misuse of public funds. In October two ministers were forced to resign following allegations that they had accepted bribes from a British company during the 1990s. Also in October the former minister of foreign affairs and former chief executive of the National Investment Bank were indicted on corruption charges for activities that occurred during the previous government. There were reports that government officials pressured businesses to steer contracts toward favored companies and individuals.

In July a presidential commission was established to investigate the activities of the former government's Ghana@50 Secretariat due to allegations of corruption. To date the commission has taken evidence from more than 200 witnesses, including suppliers, contractors, consultants, and officials involved in the celebration of the country's 50th anniversary of independence in 2007. The investigation continued at year's end.

Law enforcement authorities prevented the former minister of information from travelling abroad on the grounds that he was under criminal investigation for abuse of office for failing to follow proper procurement procedures when hiring his sister-in-law's firm to remodel his office at the ministry.

In September and October the Metropolitan Oversight Committee of the Governing Council of the National African Peer Review Mechanism conducted a study in which 83.5 percent of respondents said that situations in which people paid bribes for justice had not improved. Seventy percent of respondents said judicial decisions were unfair.

The constitution provides for public access to government information.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

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

Major local human rights NGOs acted independently of the government and political parties. The government does not apply any restrictions on domestic NGOs, although all must be registered with the State. The registration process is the same for all organizations.

The government did not refuse visas to international human rights observers or otherwise restrict access to the country.

The government cooperated fully with a range of United Nations organizations in country.

CHRAJ mediated and settled cases brought by individuals with grievances against government agencies or private companies.

CHRAJ operated with no overt interference from the government; however, some critics questioned its ability to independently investigate high-level corruption. Its biggest obstacle was a lack of adequate resources, which resulted in low salaries, poor working conditions, and the loss of many of its staff to other government and nongovernment agencies. However, public confidence in CHRAJ was high, resulting in an increased workload for its staff, whose salaries were often delayed due to a chronic lack of resources and administrative issues.

Human rights issues were addressed in the parliament by the Committee on the Constitution, Legal Issues and Parliamentary Affairs.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination on the basis of race, gender, disability, language, or social status; however, enforcement by authorities was generally inadequate. Limited financial resources and a generally permissive societal attitude toward such discrimination contributed to its perpetuation. The courts were empowered to specifically order enforcement of these prohibitions.

Women.—The law criminalizes rape but not marital rape. Rape was underreported and remained a significant problem. When cases of rape were reported, perpetrators were often arrested and prosecuted. During the year the police service's Domestic Violence and Victim Support Unit (DOVVSU) worked closely with the Department of Social Welfare, the national chapter of the International Federation of Women Lawyers (FIDA), the Legal Aid Board, and several other human rights NGOs to combat domestic violence. From January through September, DOVVSU noted 283 reports of rape, with 136 reported arrests leading to 57 prosecutions resulting in five convictions, and 217 uninvestigated cases. Convicted rapists may be punished with jail sentences ranging from five to 25 years. There were also 858 defilement cases. DOVVSU investigated 5,458 cases of nonmaintenance.

Although the law prohibits domestic violence, it continues to be a problem. The law stipulates that a person in a domestic relationship who engages in misdemeanor domestic violence is liable on summary conviction to a fine, a term of imprisonment of not more than two years, or both. In addition to imposing a fine or a prison term, the court may order the offender to pay compensation directly to the victim. Aggravated assault is tried under a separate law. However, prosecution of domestic violence cases remained difficult. Despite growing public awareness that domestic violence was a crime, government officials and NGOs did not have evidence that the new law had increased victims' willingness to report abuse or affected the number of arrests. Inadequate resources and logistical capacity in DOVVSU and other agencies, as well as only partial implementation of the Domestic Violence Act, hindered the full application of the law during the year. In many cases, victims were discouraged from reporting abuse and from cooperating with prosecutors because of long delays in bringing such cases to trial. Victims frequently did not complete their formal complaints because they could not afford the fees that doctors charged to document the abuse in police medical forms. Although the law waived these medical fees, doctors continued to require them in exchange for signing medical reports. There were credible reports that doctors sometimes charged more than the rate set by hospital administration to sign medical forms.

Unless specifically called upon by DOVVSU, police seldom intervened in cases of domestic violence, in part due to a lack of counseling skills, shelter, and other resources to assist victims. Statistics were not available on the number of abusers who were prosecuted or convicted during the year.

In the Northern, Upper East, and Upper West regions of the country, where belief in witchcraft remained strong, rural women were banished by their families or tra-

ditional village authorities for suspected witchcraft. Most accused witches were older women, often widows, who were identified by fellow villagers as the cause of difficulties, such as illness, crop failure, or financial misfortune. The banished women went to live in "witch camps," villages in the north of the country populated by suspected witches, some of whom were accompanied by their families. Catholic Relief Services and other NGOs provided food, medical care, and other support to residents of the camps. Government officials and the regional office of CHRAJ claimed that the number of women in the witch camps in the Northern Region had decreased slightly in recent years.

Although there were no confirmed reports of assaults on witches during the year, experts believed that discrimination and intolerance towards witches continued.

Prostitution is illegal and is subject to criminal prosecution. Prostitution was prevalent in the major towns and transportation centers. In July police destroyed Soldier Bar, a well known brothel in Accra, as part of the mayor's efforts to improve living conditions in the city.

There were no laws to specifically protect women from sexual harassment; however, some sexual harassment cases were prosecuted under the existing criminal code. Women's advocacy groups reported that sexual harassment remained a problem.

Policy allows couples and individuals to freely decide on the number, spacing and timing of pregnancies. In 2008 98 percent of all women surveyed were able to cite at least one birth control method. According to a foreign aid agency, 17 percent of married women of reproductive age using a modern contraceptive method. The fertility rate averaged four children per woman.

The use of antenatal care for pregnancy and delivery was high, with more than 75 percent of pregnant women having four or more antenatal visits. Approximately 60 percent of women delivered with a skilled attendant. Maternal mortality was estimated in a recent study at 451 per 100,000 live births, with the most common causes of death being hemorrhage and infection. More than two thirds of women reported receiving medical care within two days of delivery.

Women were more likely than men to accept HIV testing, particularly since it was offered as a standard component of antenatal care. HIV prevalence in the general population declined and was less than 2 percent. An estimated 10 percent of the population knows their HIV status, and about 30 percent of HIV-positive pregnant mothers receive antiretroviral medications to prevent mother-to-child transmission.

The constitution provides for all persons to be treated equally under the law. However, women continued to experience discrimination in access to employment. Women in urban centers and those with skills and training encountered little overt bias, but resistance to women entering nontraditional fields persisted. Women, especially in rural areas, remained subject to burdensome labor conditions, performing physically difficult manual labor such as farming, transporting goods, and manual household chores, while often carrying a child on their back. Women also were subjected to traditional male dominance. Traditional practices and social norms often denied women their statutory entitlements to inheritance and property, a legally registered marriage with the associated legal rights, and the maintenance and custody of children. There were female entrepreneurs, but poor access to credit remained a serious barrier for women who wanted to start or expand a business.

Women's rights groups were active in educational campaigns and in programs to provide vocational training, legal aid, and other support to women. The government was involved in educational programs, and many officials were advocates of women's rights.

Children.—The government was committed to protecting the rights and welfare of children, although its efforts were constrained by limited financial and logistical resources.

Not all births were registered with the government. Citizenship is derived by birth within the country or parentage. Although a birth certificate was not a legal precondition to attend school, in practice some children were reportedly denied education because their births were not registered.

Education is compulsory from preprimary through junior secondary school. Despite the constitutional provision for "free compulsory and universal basic education," parents were required to purchase uniforms and writing materials. Uniforms are mandatory in all government-supported schools. Students may be asked to leave school if they do not wear their uniform. The government provided textbooks.

According to the Ministry of Education, the enrollment rate during the 2008-09 school year was 94.9 percent at the primary level; 48.6 percent of those students are girls and 51.4 percent are boys. At the junior secondary school (JSS) level, 80.6 percent of eligible children were enrolled; 46.7 percent of the total enrollment was

girls and 53.3 percent were boys. Some children did not attend school because they worked to supplement their family's income or lived far from the closest school. Many schools, particularly in rural areas, had insufficient teachers and were inadequately resourced. The indirect economic cost associated with enrollment, including lost wages from children not in the labor force, was a significant obstacle for many children's families. In addition, authorities did not regularly enforce attendance, and parents were rarely sanctioned for keeping their children out of school.

The government continued its Capitation Grant program, paying schools approximately three cedis (\$2.08) per school year per child to cover cultural, sports, and other school fees. The National School Feeding Programme also helped alleviate the incidental costs associated with school attendance. During the year 645,000 children were enrolled in the program nationwide with a target of one million by 2010. The number of children in Accra participating in the school lunch program doubled during the year to an estimated 6,000.

The government strongly supported the UN's Education for All goals. During the year the Ghana Education Service (GES) actively campaigned to expand education for girls by providing scholarships at the JSS and Senior Secondary School levels and by offering financial incentives and free housing to female teachers to work in some rural areas. The GES placed girls' education officers at regional and district levels, and there were community participation coordinators in every district office to mobilize communities to increase school enrollments for girls.

The law prohibits defilement, incest, and sexual abuse of minors, but such abuse remained a serious problem. There were frequent reports that male teachers sexually assaulted and harassed female students. Girls often were reluctant to report these incidents to their parents, and social pressure often prevented parents from going to authorities. During the year there continued to be press reports of teachers and headmasters/headmistresses either arrested for sexual harassment of female students or dismissed for ignoring reported problems.

In September the headmaster of a girls' school was arrested after impregnating a 16-year-old student. He was charged with forceful marriage of a minor and failing to take responsibility as a father. He could not be charged with defilement because the student was over the age of consent, and the girl's family consented to the marriage.

During the year DOVVSU received 858 cases of suspected child defilement and 10 cases of attempted defilement.

The law prohibits female genital mutilation (FGM), but it remains a serious problem in the Upper West region of the country, and to a lesser extent in Upper East and Northern regions. Type II FGM—defined by the World Health Organization as the excision of the clitoris with partial or total excision of the labia minora—was more commonly performed than any other type. A girl was typically excised between 4 and 14 years of age. According to a 2008 study conducted by the Ghana Statistical Service with support from the UN Children's Fund, approximately 49 percent of women age 15-49 in Upper West had experienced some form of FGM, compared to 20 percent of women in this age group in Upper East and 5 percent of this group in Northern Region.

Sylvester Kyei-Gyundi, head of the Information Research Advocacy Division of the Department of Children, said that national efforts focused on negative cultural practices (including FGM) have yielded positive results. Intervention programs were somewhat successful in reducing the prevalence of FGM, particularly in the northern regions. Officials at all levels, including traditional chiefs, continued to speak out against the practice, and local NGOs continued educational campaigns to encourage abandonment of FGM and to train practitioners in new skills so they could seek alternate sources of income.

Among women 15-49 surveyed in Upper West where the practice was most common, 85 percent stated that the practice should be discontinued, 10 percent were unsure, and only 5 percent supported its continuation. Lower prevalence of FGM among women in Upper East was highly correlated with increased education. There were no prosecutions of practitioners during the year.

Forced child marriage, which was illegal, remained a problem. CHRAJ and NGOs reported that the problem had not improved during the year.

The migration of children to urban areas increased due to economic hardship in rural areas. Children were often forced to support themselves to survive, increasing both the occurrence of child labor and the school dropout rate. Girls under 18 were among the most vulnerable child laborers, as many also engaged in prostitution or were sexually exploited in exchange for protection while living on the streets. The girls were exploited by both their protectors and their customers.

There were media reports that children participated in the ongoing ethnic and chieftaincy conflict in Bawku in the Upper West Region. Children were reported to

have burned houses, and a group of Mamprusi children were alleged to have ambushed a Kusasi woman near Bawku hospital. In March Vice President John Mahama spoke out against the involvement of children in this conflict, and ordered the security forces to work to prevent it.

Local and international NGOs worked with the government to promote children's rights and were somewhat successful in sensitizing communities about protecting the welfare of children.

Trafficking in Persons.—The law prohibits all forms of trafficking in persons and provides for a minimum prison sentence of five years for convicted traffickers.

The country was a source, transit, and destination country for women and children trafficked for the purpose of forced domestic and commercial labor and sexual exploitation. The parliament passed a bill in July to amend the definition of human trafficking to include the phrase “for the purpose of exploitation.”

The number of trafficked victims was unknown, although NGOs estimated the number to be in the thousands annually. During the year DOVVSU received reports of 11 cases of child trafficking. Numbers reported in the media and obtained from police sources indicate that the actual figure was much higher.

Trafficking was both internal and international, with the majority of trafficking in the country involving children from impoverished rural backgrounds. The most common forms of internal trafficking involved children, mostly boys, trafficked into the fishing communities along Lake Volta, and girls from the north and east trafficked to Accra and Kumasi to work as domestic helpers, porters, and assistants to local traders. Local and international NGOs reported these children were often subjected to dangerous working conditions and were sometimes injured or killed as a result of the labor they performed. Local authorities supported projects sponsored by the International Organization of Migration (IOM) and other organizations to decrease the incidence of trafficking in persons. IOM and various NGOs offered micro-credit assistance and education to families who agreed not to provide their children to traffickers and to those whose children had been trafficked.

Children between the ages of seven and 17 also were trafficked to and from the neighboring countries of Cote d'Ivoire, Togo, The Gambia, Nigeria, and Burkina Faso to work as farm workers, laborers, divers, street hawkers, or domestics.

Much of the recruitment of children was done with the consent of the parents, who sometimes were given an advance payment or promised regular stipends from the recruiter and were told the children would receive food, shelter, and often some sort of training or education. Some parents sent their children to work for extended family members in urban areas. In other cases, children were given to professional recruiters, usually women, who placed the children with employers in cities. In many cases the children never received the education or vocational training the recruiters promised.

Women and girls also were trafficked to Europe, mostly to Italy, Germany, and the Netherlands. International traffickers promised the women legitimate jobs; however, the women often were forced into prostitution once they reached their destination. Women were sometimes sent directly to Europe while others were trafficked through third countries. Some young women were trafficked to the Middle East, particularly Lebanon, where they worked in menial jobs or as domestic help. There were also reports that women and girls from Nigeria, Benin, Togo, and Burkina Faso were trafficked to or through the country in transit to Western Europe or the Middle East to work in the commercial sex industry. Traffickers sometimes operate under the guise of being employment agents, promising work as domestics or in other fields. Under the antitrafficking law, DOVVSU has responsibility for enforcement, and the Department of Social Welfare within the Ministry of Employment and Social Welfare (MESW) has responsibility for victim assistance, including locating family members and providing temporary shelter, counseling, and job skills training. Local police and social welfare officials reported insufficient resources to implement the law, particularly in rural areas without police stations.

On March 30, a Nigerian woman was sentenced to eight years in prison with hard labor for trafficking a 14-year-old girl from Togo to Ghana.

In April four Nigerians were arrested for trafficking three compatriots into Ghana for prostitution. The four were remanded into police custody. The traffickers were sent to Nigeria on May 1 to be tried in their home country. In June three Chinese were convicted and sentenced to prison terms of between 12 and 17 years with hard labor for trafficking eight compatriots to Ghana for prostitution. The court ordered more than \$14,500 seized from the convicted Chinese traffickers to finance the victims' return to China.

In August a Ghanaian woman was convicted of trafficking and sentenced to eight years' imprisonment with hard labor for trafficking two Togolese children and three Ghanaian children to Ghana and Cote d'Ivoire to work in the fishing industry. Gha-

na's Antihuman Trafficking Unit investigated the case, rescued the children, and returned them to their parents for reintegration.

In December police arrested four Chinese nationals for trafficking seven women from China through Togo to work as prostitutes in Ghana. Three of the accused were remanded into custody. The fourth was released on bail.

The government, the International Labor Organization (ILO), and NGOs continued to train security forces, immigration authorities, customs officials, and police on the new trafficking law. The Border Patrol Unit, part of the Immigration Service, is responsible for monitoring the flow of travelers in and out of the country, particularly along unapproved routes. Various ministries worked with the ILO's International Program on the Elimination of Child Labor (ILO/IPEC), the IOM, and NGOs to address trafficking. The MESW, in conjunction with ILO/IPEC, continued to implement a National Plan of Action for the Elimination of Child Labor. International and local NGOs and the Ministry of Women and Children's Affairs (MOWAC) worked to identify and return children trafficked to fishing villages, and to support the fishermen's transition to alternate forms of income generation.

Authorities made ad hoc efforts to shelter and reintegrate trafficking victims from the country and other West African countries. However, the government devoted little attention to rehabilitating child trafficking victims.

During the year the government continued to conduct community meetings and workshops for media and police to raise awareness of the trafficking law.

Persons With Disabilities.—The law provides for the rights of persons with disabilities, including protection against exploitation and discrimination in employment, health care, and other domains. The National Council on Disability, mandated by law, was inaugurated on April 7. While the government did not systematically or overtly discriminate against persons with disabilities, such persons often experienced societal discrimination. The law provides persons with disabilities access to public buildings "as far as is practical." Activists supporting the rights of persons with disabilities complained of the slow implementation of the Persons with Disability Act, especially the lack of legislative instruments to implement the new law. Despite the legal protection provided in the law, discrimination against disabled persons in employment and the inaccessibility of public buildings continued to be problems.

In March four persons appeared in court on murder charges in connection with the July 2008 killing of Yakubu Busanga, a hunchback. The attack may have been motivated by a desire to obtain body parts for use in ritual practices.

Persons with both mental and physical disabilities were frequently subjected to abuse and intolerance. In July a two-year-old albino boy was stolen from his mother for ritual purposes. An 18-year-old woman was arrested for the kidnapping and detained in prison custody. She claimed that she was hired to steal the child. At year's end there was no new information on the case.

Some religious groups believed that persons with mental disabilities were afflicted by demons that should be exorcised. The abuse of children with disabilities was common. In previous years there were reports that children with disabilities were tied to trees or under market stalls and caned regularly and of family members killing children with disabilities.

Human rights activists expressed concerns about camps in which individuals believed to be possessed by evil spirits were chained up for weeks, physically assaulted, and denied food and water. The camps targeted persons with mental illnesses. Camp supervisors diagnosed mental illness as a "demonic affliction" and prevented patients from consuming food or water, often for seven consecutive days, to cleanse victims of their evil spirits. Some victims were estimated to be as young as six years old. Families sent these victims to be exorcised of evil spirits or cured of their physical or mental illnesses. Victims were held at the camps until they were considered to be healed. Reports indicated that these practices occurred in the Greater Accra, Eastern, Central, Western, Ashanti, and Brong Ahafo regions. The Commonwealth Human Rights Initiative (CHRI) released a report in May on prayer camps based on interviews with current and former inmates. The report found that insufficient financial resources was a burden faced by many families caring for mentally ill members, and that prayer camps were an available option. The CHRI called for regulation of prayer camps.

There are several government agencies and NGOs involved in addressing discrimination against persons with disabilities, including the Ministry of Health, the Department of Social Welfare in the MESW, the Ministry of Education, and the Center for Democratic Development.

National/Racial/Ethnic Minorities.—The government has deemphasized the relevance of ethnic differences. President Mills and some of his ministers and close ad-

visors are Fanti, but the vice president and many ministers are of other ethnic origins. There were numerous small-scale conflicts within ethnic groups during the year, most of which related to chieftaincy and land use issues. Efforts by NGOs to encourage reconciliation continued during the year.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The constitution protects human rights but does not specifically mention sexual orientation in its list of protected classes. The law makes consenting homosexual acts a misdemeanor, and strong sociocultural beliefs discriminated against and stigmatized same gender sex. The law does not differentiate between male-male and female-female sex. There are no registered Lesbian, Gay, Bisexual, and Transgender (LGBT) organizations. LGBT persons faced widespread discrimination, as well as police harassment and extortion attempts. Gay men in prison often were subjected to sexual and other physical abuse.

Other Societal Violence or Discrimination.—Discrimination against persons with HIV/AIDS was a problem, and the fear of being stigmatized continued to discourage persons from being tested for HIV infection.

The government and NGOs subsidized many centers that provided free HIV testing to citizens, although there were reports that confidentiality was not consistently respected.

Section 7. Worker Rights

a. The Right of Association.—The law allows workers, except for the armed forces, police, the prison service, and some other security and intelligence agency personnel, to form and join unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice. While unions no longer must seek government approval before registering, the law requires that trade unions or employers' organizations must register, be authorized by the chief labor officer, and obtain a certificate of registration to be considered legal. The percentage of workers belonging to unions decreased in recent years, in part because of a relative lack of employment opportunities in the formal, unionized sectors. Moreover, some workers previously employed in the formal sector lost their jobs.

The law recognizes the right to strike but restricts that right for workers who provide essential services, including "areas in an establishment where an action could result in a particular or total loss of life or pose a danger to public health and safety and such other services as the minister may by legislative instrument determine." The minister of employment and social welfare designated a list of essential services. The list included services carried out by utility companies (water, electricity, etc.), ports and harbors, medical centers, and the Bank of Ghana. In these essential services, the parties to any labor disputes are required to resolve their differences within 72 hours; the deadline was meant to put pressure on employers and employees to operate efficiently with limited interruptions. The right to strike can also be restricted for workers in private enterprise whose services were deemed essential to the survival of the enterprise by a union and an employer. A union may call a legal strike if the parties fail to agree to refer the dispute to voluntary arbitration or if the dispute remains unresolved at the end of arbitration proceedings. No union had ever gone through the complete dispute resolution process, and there were numerous unsanctioned strikes during the year.

In May doctors in one hospital went on strike over unpaid allowances, and in August the miners in one large gold mine went on strike over wage disparities between expatriate and local workers. In July the National Association of Graduate Teachers threatened to strike over pay and allowances. At year's end, the graduate teachers had not called a strike.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. However, the armed forces, police, prison service, security, and intelligence personnel, and workers with policy making and managerial functions, do not have any possibility of bargaining collectively. The law provides a framework for collective bargaining, and trade unions engaged in collective bargaining for wages and benefits with both private and state-owned enterprises without government interference. However, only unions that represented the majority of workers in a given company can obtain a Collective Bargaining Certificate, which was required to engage in collective bargaining.

The labor law prohibits antiunion discrimination by employers; however, some employers continued to fire employees for union activity contrary to the law. Although the Labor Act protects trade union members and their officers against discrimination if they organize within the free zones, in practice some employers persistently resisted unionization of the employees.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor; however, there were reports that such practices occurred. Local NGOs cited the presence of compulsory labor affecting both children and adults in the fishing sector and in illegal mining. Local NGOs claimed victims forced to work on boats as children were sometimes unable to leave their employers and continue to work without pay as adults. In the illegal mining industry (galamsey), NGOs cited debt bondage as a problem.

The law provides for employers found guilty of using forced labor to be fined no more than 250 penalty units (each unit was assigned a monetary value adjusted for the fluctuating exchange rate); however, limited resources inhibited the government's implementation of the law, and no fines were levied during the year. During the year the ILO continued to urge the government to revise various legal provisions that permit imprisonment with an obligation to perform labor.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law sets the minimum employment age at 15 years and 13 years for light work that was not likely to be harmful to the child and does not affect the child's attendance at or capacity to benefit from school. The law prohibits night work and certain types of hazardous labor for those under 18, and provides for fines and imprisonment for violators; however, child labor remained a serious problem in the informal sector. The law allows for children age 15 and above to have an apprenticeship under which craftsmen and employers have the obligation to provide a safe and healthy work environment along with training and tools. However, child labor laws were not always enforced effectively or consistently, and law enforcement officials, including judges, police, and labor officials, were sometimes unfamiliar with the provisions of the law that protected children. During the year the MOWAC conducted seminars on child labor to educate the media, police, civil servants, and the general public. However, local custom and poverty encouraged children to work to help support their families and eroded societal observance of child labor laws.

Children as young as seven worked in agriculture and as domestic laborers, porters, hawkers, miners, quarry workers, and fare collectors. Children also engaged in herding livestock, fetching firewood, and bricklaying.

The fishing industry in the Lake Volta region had a particularly high number of child laborers engaged in potentially hazardous work, such as diving into deep waters to untangle fishing nets caught on submerged tree roots. Girls in the region also engaged in work as domestic servants, cooks, servers, and porters.

Child laborers were poorly paid and physically abused; they received little or no health care and generally did not attend school.

According to government labor officials and the Ghana Employers Association, child labor problems were infrequent in the formal labor sector.

The law prohibits forced and compulsory labor by children; however, during the year children were forced to work or were reportedly sold, leased, or given away by parents to work in fishing villages, shops, or homes. It was difficult to determine the extent to which forced and bonded labor by children was practiced.

There were newspaper reports of children being sold into involuntary servitude for either sexual exploitation or labor, such as 10- to 12-year-old boys working for fishermen in exchange for a yearly remittance to their families. The practice often involved the consent of their generally impoverished parents. The media runs regular stories about children being used in involuntary servitude, particularly as street hawkers and porters.

Inspectors from the Ministry of Employment and Social Welfare are responsible for enforcement of child labor regulations, and district labor officers and the social services subcommittees of district assemblies are charged with seeing that the relevant provisions of the law are observed by annually visiting each workplace and making spot checks whenever they receive allegations of violations. Inspectors are required to provide employers with information about child labor violations and effective means to comply with provisions of the Labor Act. However, the government did not provide sufficient resources to law enforcement and judicial authorities to conduct these efforts.

During the year the government continued its five-year national Program for the Elimination of Child Labor in the Cocoa Sector, which included awareness-raising initiatives regarding child labor practices in cocoa farming. The government worked closely with NGOs, labor unions, and the cocoa industry to better understand the role of children in the cocoa sector and to encourage changes, through the program to eliminate the worst forms of child labor in the cocoa industry.

The government continued to implement its National Plan of Action for the Elimination of Child Labor and collaborated with ILO/IPEC through June on a \$4.75 million project to support this plan. This project withdrew 5,326 children from exploitative child labor and kept another 5,753 children from exploitative child labor.

ILO/IPEC, government representatives, the Trade Union Congress, media, international organizations, and NGOs continued to build upon the National Plan of Action for the Elimination of Child Labor in Ghana by increasing institutional capacity to combat child labor. With the support of the government, NGOs and foreign governments funded more recent programs to combat child labor. Education and sensitization workshops were conducted with police, labor inspectors, local governments, and communities.

e. Acceptable Conditions of Work.—A National Tripartite Committee composed of representatives of the government, labor, and employers set daily minimum wages. The daily minimum wage of 2.65 cedis (\$1.85) during the year did not provide a decent standard of living for a worker and family. Furthermore, there was widespread violation of the minimum wage law in the formal sector and there was no official minimum wage for the growing informal labor force. In most cases households had multiple wage earners, and family members engaged in some family farming or other family-based commercial activities. The Ministry of Employment and Social Welfare was unable to credibly enforce this law.

The Fair Wages and Salaries Commission was charged with ensuring fair, transparent, and systematic implementation of the government public service pay policy; advising government on matters related to salaries, wages, grading, classification, job analysis, and job evaluation; and ensuring that decisions on those issues are implemented.

The law sets the maximum workweek at 40 hours, with a break of at least 48 consecutive hours every seven days. Workers were entitled to at least 15 working days' leave with full pay in a calendar year of continuous service or after having worked at least 200 days in a particular year. However, such provisions do not apply to task workers or domestic workers in private homes, nor elsewhere in the informal sector.

Occupational safety and health regulations exist, and the Factories Department within the MESW was responsible for imposing sanctions on violators; employers who failed to comply were liable to a fine not exceeding 1,000 penalty units, to imprisonment for a term not exceeding three years, or to both. The law requires that employers report, no later than seven days from the date of occurrence, occupational accidents and diseases. In practice, safety inspectors were few and poorly trained, and they lacked the resources to effectively respond to violations. Inspectors did not impose sanctions or otherwise respond to violations during the year.

In September 2008 CHRAJ issued a report, "The State of Human Rights in Mining Communities in Ghana." The report found evidence of widespread violations of human rights in mining areas of the country. The report documented abuses by the security services in mining areas, particularly of *galamseys*, independent, artisanal miners whose operations sometimes conflict with larger, concessionary miners. The report also notes that environmental damage from mining, especially to water resources, has impacted both public health and loss of livelihoods. Blasting in mine sites also caused damage to private property.

The report cited examples of private and government security forces abusing small-scale miners. In the Obuasi area of Western Ghana, independent miners suspected of stealing equipment from a nearby mine were arrested and beaten by security service members. The report cited a 2006 incident in Wassa West area where members of the Ghana military covered pits in which independent miners were known to be digging at the time. The miners were able to extract themselves.

GUINEA

Guinea has a population of approximately 10 million. Its constitution was suspended by a military junta that seized power in a December 2008 coup, hours after the death of former president Lansana Conte. In 2003 Conte won an election boycotted by the opposition and criticized by international observers as neither free nor fair. The junta, known as the Council for Democracy and Development (CNDD), proclaimed Captain Moussa Dadis Camara head of state and dismissed the National Assembly. Despite the appointment of a civilian prime minister, Kabine Komara, to serve as head of government, the CNDD consolidated power within the presidency. On December 3, President Camara was shot in the head in an apparent assassination attempt and was recovering in Morocco at year's end. Defense minister and CNDD vice president Sekouba Konate became the interim CNDD president on December 3. The country's constitution and National Assembly remained suspended during the year. Civilian and military authorities did not maintain effective control of the security forces.

Serious human rights abuses occurred during the year. Citizens did not have the right to change their government through periodic elections. Security forces conducted mass killings and beatings, publicly raped women and girls, and tortured and abused detainees to extract confessions. Prison conditions were inhumane and life threatening. Perpetrators of killings and abuse acted with impunity. There were arbitrary arrests, prolonged pretrial detention, and incommunicado detention. The judiciary was subject to corruption and outside influence, including intimidation from security forces. The government infringed on citizens' privacy rights and restricted freedoms of speech, press, assembly, association, and movement. Sexual violence against women and girls, societal discrimination against women, and female genital mutilation (FGM) were problems. Trafficking in persons, ethnic discrimination, and forced labor, including by children, occurred.

Due to Captain Camara's August announcement that he might run for president, the opposition coalition known as "Les Forces Vives" held a large protest on September 28 in a Conakry sports stadium, which soldiers violently suppressed with live ammunition, resulting in deaths of at least 157 demonstrators and injuries to approximately 1,200. Security forces also publicly raped approximately 100 women in and near the stadium and arrested demonstrators, an unknown number of whom remained in detention at year's end. On December 3, an unsuccessful attempt to assassinate Captain Camara resulted in another military crackdown, in which an unknown number of civilians and military personnel were arbitrarily killed, injured, or detained.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—During the year security forces killed hundreds of citizens and demonstrators; many of the killings appeared to be politically motivated. Captain Camara and high-level government officials also endorsed and encouraged vigilante killings on numerous occasions during the year. The government did not investigate any security force killings and took no legal or disciplinary action against the perpetrators.

In what Human Rights Watch (HRW) called an "organized operation" that the CNDD planned in advance, several hundred members of the elite Presidential Guard deployed on September 28 to a Conakry stadium where tens of thousands of unarmed and peaceful opposition demonstrators had gathered to protest CNDD policies and the possible candidacy of Captain Camara in the next presidential election. The soldiers surrounded the stadium, blocked the entrances, and used guns and bayonets on the demonstrators, resulting in at least 157 deaths; the government cited 57 deaths and claimed that most resulted from crushing by the crowd and stray bullets. A number of opposition leaders, including Sidya Toure, Cellou Diallo, Jean-Marie Dore, Alpha Conde, and Mouctar Diallo were beaten and then detained by security forces for approximately 12 hours. According to HRW and other sources, security forces reportedly removed dozens of bodies from the stadium and local hospitals and subsequently buried them in mass graves.

Following the December 3 attempted assassination of Captain Camara, the military launched a crackdown during its search for the suspected assassin Lieutenant Aboubacar "Toumba" Diakite; Diakite escaped and remained at large at year's end. Military personnel reportedly arrested approximately 60 soldiers, including civilians, as part of the roundup. Eyewitnesses told journalists that persons were being shot in the streets as they fled from patrols. There was at least one confirmed death but no information as to the numbers killed or injured during the search.

No investigations were conducted into the killing of four persons by security forces during the May 2008 military mutiny in Conakry and the June 2008 killing by soldiers of 14 striking police officers.

During the year government officials, including Captain Camara, endorsed and encouraged vigilante killings.

For example, on February 3, Captain Camara issued a proclamation authorizing the use of lethal force against anyone engaged in drug trafficking, money laundering, armed robbery, or trafficking in children; the proclamation did not specify who was authorized to kill or if other crimes would be punishable by lethal force. During a May 10 news conference, Captain Camara pronounced a blanket death penalty for all criminal activities and said that thieves caught in the act should be killed instantly.

In a June 2 meeting with local officials, the minister of high crimes and anti-drugs, Moussa Tiegboro Camara, stated that armed robbers should be burned alive to avoid overcrowding the prisons. His proclamation was commonly known as "Law 4550," in reference to the cost of a liter of gasoline and a book of matches in local

currency. On June 5, Minister Tiegboro congratulated residents in the Yimbaya neighborhood of Conakry on the death of a local criminal who had been tortured by residents. In a June 24 interview with HRW, he claimed that his statements were meant to frighten criminals.

On August 4, Captain Camara praised Boubacar Diallo, a taxi driver, who along with his passengers, beat and killed a bandit on July 21 during a taxi robbery. Captain Camara rewarded Diallo with 10 million Guinea francs (\$2,000) and a new car.

Following the statements by Captain Camara and Minister Tiegboro, incidents of vigilante violence increased throughout the country.

For example, on May 8, in the town of Mandiana, police arrested a man who had kidnapped and held an 8-year-old girl in his home. Despite warning shots from the police, a mob broke into the prison, stoned the man to death, and set his body on fire.

On May 22, a mob gathered outside the Guekedou prison, removed imprisoned military officers Youssouf Keita and Pierre Bangoura, and burned them to death. Police had arrested the officers for a series of crimes and several murders.

On July 15, a crowd gathered outside the Kissidougou jail and demanded that police hand over Faya Antaoine after his arrest for killing his wife. The police reportedly attempted to hold off the mob, but eventually the mob beat and stoned Faya to death outside of the station.

b. Disappearance.—There were reports of disappearances, including some that may have been politically motivated. Following the September 28 massacre at the opposition rally in a Conakry stadium, dozens of demonstrators disappeared. The CNDD stated that all bodies of victims killed were returned to family members; however, local press interviewed a number of individuals who stated that they were unable to identify their relatives among the bodies presented by the government. HRW reported that bodies were buried in mass graves (see section 1.a.).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution and law prohibit such practices; however, both civilian and military security forces tortured, beat, raped, and otherwise abused citizens and detainees. Nongovernmental organizations (NGOs) reported torture to extract confessions in police and military detention facilities. Minors also were tortured before being incarcerated, according to a May 2008 report by the local NGO Terres des Hommes. The government did not investigate any of these cases and took no legal or disciplinary action against security force members responsible for the abuses.

During the September 28 stadium massacre, security forces used guns and bayonets to kill and injure hundreds of civilians (see section 1.a.).

On June 2, the local press reported incidents of torture, including possible castration, at the military prison on Kassa Island, where approximately 100 military personnel were reportedly detained in inhumane conditions.

On August 8, three soldiers ambushed, beat, and kidnapped Dominic Aboayje, the Ghanaian ambassador, from his diplomatic vehicle in Conakry. The soldiers released the ambassador a few hours later but stole the vehicle.

On August 25, according to a prison official, authorities at Kassa Island transferred a prisoner who had been tortured to Conakry's prison. The prisoner died that night of his injuries.

No investigations were conducted into the November 2008 torture of six Cameroonian citizens authorized by Claude Pivi, an army lieutenant, who was subsequently appointed minister of presidential security during the year.

Security forces used sexual violence to intimidate and brutalize civilians. During the September 28 stadium massacre, members of the Presidential Guard publicly raped and sexually assaulted with weapons approximately 100 women during a brutal repression of an opposition demonstration in Conakry (see section 1.a.). According to human rights organizations and survivors, approximately 20 women were also kidnapped and raped for several days. By year's end no perpetrators had been punished for these crimes.

On March 31, a soldier raped a 15-year-old girl, according to HRW. The soldier was detained for a few days in the military camp. The girl's family did not press charges after the military agreed to pay for her medical expenses.

No investigations or arrests were made into the November 2008 stoning to death of Fanta Camara, whom a radio station erroneously identified as a child trafficker.

No individuals were held responsible for the 2007 torture of Lansana Komara, an opposition party leader and professor who was imprisoned in 2007.

Vigilante violence was common, in part due to lack of confidence in security forces and the judiciary (see section 1.a.). Citizens in N'Zerekore sometimes waited outside the local prison to attack and burn released convicts to death, according to one NGO.

Prison and Detention Center Conditions.—Conditions in civilian prisons, which were under the Ministry of Justice, remained inhumane and life threatening. Prisoners, including children, were reportedly routinely tortured to extract confessions or to extort money. According to NGOs, prisoners claimed that guards routinely threatened, beat, and otherwise harassed them. Although the law condemns torture and other abuse, the government took no action against alleged torturers.

All prisons were overcrowded. Conakry Prison, which was built to hold 300 prisoners, held 1,055 prisoners at year's end. Some Conakry prisoners reported sleeping on their knees because their cells were so small. In the N'Zerekore prison, approximately 60 prisoners were squeezed into two small cells with no access to fresh air or daylight.

Reports from NGOs indicated that prison guards routinely harassed and sexually assaulted female inmates. A local NGO reported that half of the female prisoners in Conakry Prison had been beaten or abused during the year. One NGO reported that prison guards regularly subjected girls under the age of 18 to sexual exploitation and harassment in exchange for favors, especially provision of additional food or water.

The prison administrator in Kankan who had routinely sexually abused a female prisoner in 2008 was transferred to another post.

Neglect, mismanagement, and lack of resources were prevalent. Toilets did not function, and prisoners slept and ate in the same space used for sanitation purposes. Access to drinking and bathing water was inadequate. Wells ran dry in the dry season and electric pumps, such as the one in Conakry Prison, did not function. NGOs reported that the roof of N'Zerekore Prison was almost completely destroyed, exposing prisoners to the elements.

A foreign observer reported that inmates in Siguiri Prison lacked access to medical care, adequate food and water, and legal representation, a situation that was common to prisons throughout the country. One prisoner, who appeared in better health than the other inmates, stated that he spent the day at home but returned at night due to a special arrangement with the prison's administrator.

NGOs reported endemic malnutrition throughout the prison system. In a February 23 report, Doctors Without Borders (MSF) detailed their actions in the Gueckedou Prison after finding that 38 percent of the 72 prisoners suffered from acute malnutrition, with 21 percent severely malnourished and 17 percent moderately malnourished. In follow-up visits to other prisons, MSF found similar situations, noting that "such cases of severe acute malnutrition are rare among adult populations, even in vastly more unstable settings of conflict and violence." MSF also reported that 42 percent of the prisoners in Gueckedou Prison suffered from dehydration.

The government stopped delivering food and medicine to the prisons during the first five months of the year. During this period, prison directors relied on charities, the International Committee of the Red Cross (ICRC), and NGOs to provide food for the prison populations. The medical doctor at Conakry Prison confirmed that during the year, malnutrition contributed to the deaths of several prisoners.

Prisoners reported eating one small meal a day consisting primarily of rice and sauce. Some inmates relied on assistance from families or friends to maintain their health, but relatives often abandoned prisoners due to social stigma and the difficulty and cost of travel to the prisons. Guards often demanded bribes in exchange for delivering food to those incarcerated and routinely confiscated food, which was seldom delivered to the intended beneficiary.

Inmates were not tested for HIV/AIDS upon entry into the prisons, and no statistics were kept; however, a physician working in Conakry Prison estimated that 15 percent of the prison population was infected. The lack of medicine in the prisons, combined with the endemic malnutrition and dehydration, made infection or illness life threatening. In Gueckedou, and commonly in other jails, prisoners with tuberculosis were living together with other inmates.

Poor sanitation, malnutrition, disease, lack of medical attention, and poor conditions resulted in dozens of deaths, but no estimates were available. Although there was no data for the interior of the country, a local prisoner advocacy NGO reported 89 deaths in Conakry Prison during the year and an additional 26 detainees who perished in local hospitals.

Although the Ministry of Justice administered civilian prisons, military officers and guards managed and staffed the facilities. There were reports that some prison administrators followed directives from their military superiors, even when they were in conflict with orders from the Ministry of Justice. Due to limited funds and personnel shortages, prisons were largely staffed by untrained and unpaid "volunteers" who hoped for permanent entry into the military. This system was difficult to manage and particularly vulnerable to corruption and abuse.

Some prisoners exercised more power than the guards by controlling conditions and cell assignments, giving better conditions to prisoners who were able to pay.

NGOs estimated that approximately 3,800 prisoners (including between 47 and 100 women) were incarcerated in 32 civilian prison facilities nationwide.

In most prisons, men and women were held separately, but juveniles generally were held with adults in prisons outside the capital. In Siguiri Prison, children were housed with adult men and women. Local NGOs reported that male juveniles were held separately from male adults at Conakry Prison; however, women and girls were confined together and not given the same freedoms as their male counterparts, such as access to fresh air.

Nationwide figures regarding incarcerated minors were unavailable, but a local NGO reported that 135 minors were incarcerated at Conakry Prison. Approximately 85 percent of the minors had not been formally charged or tried, several had been imprisoned for more than six years, and others had grown up in the prison. No information was available on the number of children incarcerated with their mothers nationwide.

The NGO Terre des Hommes reported that only five of 117 juvenile inmates in Conakry Prison had obtained access to legal representation during the year. The government did not make provisions for children's food, clothing, education, or medical care in prison.

Pretrial detainees were not separated from convicted prisoners, and the prison system often was unable to track pretrial detainees after arrest. Political prisoners were reportedly held either at the Kassa Island military prison or at the Conakry Prison, but they were housed in separate cells from the general population.

Conditions in military and gendarmerie prisons, which were under the Ministry of Defense, could not be verified since the government denied access to prison advocacy groups and international organizations; however, local media reported the use of torture, including castration, at the military police prison and other police and military facilities on Kassa Island. Gendarmerie prisons were commonly used to hold civilian detainees while they were being processed for transfer to civilian facilities; however, such temporary detentions could last anywhere from a few days to several months.

The government permitted prison visits by the ICRC and other local humanitarian and religious organizations that offered medical care and food for those in severe need. The ICRC was allowed regular access to all official civilian detention facilities; however, no international organization was permitted access to military detention facilities. The ICRC continued partnership programs with prison and security authorities to improve prison conditions. During the year a local NGO attempted to visit a major military prison on Kassa Island, but government officials claimed that the facility was not a prison.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention; however, security forces did not observe these prohibitions.

Role of the Police and Security Apparatus.—The gendarmerie, a part of the Ministry of Defense, and the National Police, under the Ministry of Security, share responsibility for internal security. Since the December 2008 military coup, the CNDD restructured the gendarmerie as a national police force with responsibility for policing customs, immigration, and airport and seaport security. The army is responsible for external security but also plays a role in domestic security. A quasipolice unit called the Anticrime Brigade, created to fight criminal gangs and bandits, also operated in Conakry. In January the CNDD created the Ministry of High Crimes and Anti-Drugs (HCAD) to investigate illegal drugs, trafficking in persons, money laundering, and organized crime. Since no agents were officially assigned to the HCAD, a small cadre of officers from the gendarmerie, judicial police, and Presidential Guard joined forces to sporadically investigate cases. The code of penal procedure permits only the gendarmerie to make arrests, but the army, Presidential Guard, and state police also detained persons.

The police force was inadequately staffed and lacked training. In addition, a number of police officers were part of a "volunteer" corps that did not receive a salary. Administrative controls over the police were ineffective, and security forces rarely followed the penal code. Corruption was widespread, and security forces generally were not held accountable for abuses of power or criminal activities. Many citizens viewed all the security forces as corrupt, ineffective, and dangerous. Police ignored legal procedures and extorted money from citizens at roadblocks. The government did not take any action to train or reform security forces, although several NGOs conducted training programs.

Discipline within the armed forces deteriorated significantly during the year. According to media reports, local NGOs, and international organizations, a culture of

impunity emboldened soldiers to rob persons at gunpoint, loot businesses, and assault officials, foreign ambassadors, and civilians. According to an April 27 HRW report, soldiers in groups numbering up to 20 raided offices, shops, warehouses, medical clinics, and homes in broad daylight as well as at night. Victims included local citizens and foreigners, and many of the victims were also threatened or physically assaulted. No security force members were punished or prosecuted during the year for these cases.

For example, on January 28, according to an HRW report, 10 soldiers robbed a businessman at his pharmacy. The soldiers reportedly entered the premises to search for counterfeit medicines but removed approximately 50 million Guinean francs (\$10,000) from the safe. The soldiers also forced the owner into their car upon leaving but released him within hours.

On May 30, two armed soldiers threw a businessman out of a third-story window of his home and stole his car. The fall broke the man's back, both legs, and both arms.

On July 30, members of the Presidential Guard attacked the first vice president and minister of security, General Toto Camara, during a dispute over a shipment at the port of Conakry. Captain Camara and the perpetrators apologized to Toto Camara, but the perpetrators were not punished.

According to HRW, during the year small groups of soldiers interrupted judicial proceedings or threatened lawyers in an attempt to influence the outcome of proceedings.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law requires warrants before an arrest and provides that detainees be charged before a magistrate within 72 hours; however, many detainees were arrested without warrants and incarcerated for longer periods before being charged. The law precludes arrest of persons in their home between 4:30 p.m. and 6:00 a.m.; however, night arrests occurred. After being charged, the accused may be held until the conclusion of the case, including a period of appeal. Authorities routinely did not respect the provision of the law that provides client access to attorneys. Indigent defendants were not provided attorneys at state expense. Although the law proscribes incommunicado detention, it occurred in practice. Release on bail was at the discretion of the magistrate who had jurisdiction. The law allows detainees prompt access to family members, but such access was sometimes denied and could occur in the presence of a government official.

Throughout the year military personnel arbitrarily detained citizens, including members of the media, politicians, businessmen, demonstrators, civil servants, and civil society members. One international NGO reported that gendarmes routinely arrested civilians and detained them at Kassa Island military prison until they paid bribes for their release.

Following the events at the stadium on September 28, security forces arrested and detained an unknown number of civilians. One demonstrator described to a foreign observer how he had been arrested at the stadium by military personnel and then detained at Camp Koundara for 48 hours. The demonstrator described being subjected to torture. He alleged withholding of food and water, beatings, removal of clothing, and being made to hold strenuous physical positions for hours at a time. The demonstrator was held with 11 other detainees and claimed that he was released only after a family member was able to bribe a military officer. There was no further information on the reported remaining 11 detainees by year's end.

Since hundreds of people disappeared in the September 28 violence and the subsequent crackdown, NGOs were unable to determine how many people were killed during the violence or were arrested and detained. Similarly, NGOs could not ascertain how many detainees were still held at year's end. While a local NGO attempted to compile a list of the missing, they were not able to verify the names at year's end.

On April 6, military personnel arrested the vice president of the audit committee, Mouctar Balde, after he stated in a press interview that a prominent businessman did not owe money to the state. Balde was held at Camp Alpha Yaya military barracks for a week before being released.

Gendarmes and members of the Presidential Guard detained an unknown number of active and former military personnel for unspecified reasons. Credible human rights sources reported that the treatment of these military detainees was not monitored by independent agents.

In early January the CNDD detained 12 military officers at Camp Alpha Yaya for approximately three months, where they reportedly were mistreated and beaten. On August 1, they were reportedly moved to the Kassa Island military prison; there was no further information by year's end.

According to HRW, in April security forces at Kassa Island detained and beat a second group of at least three military personnel following an alleged coup plot against Captain Camara. There was no further information by year's end.

On May 26, according to local media reports and HRW, military personnel severely beat Kader Doumbouya, a former military commander who remained detained without charge on Kassa Island prison at year's end.

Judicial inefficiency, corruption, and lack of political will contributed to prolonged pretrial detention. Local and international NGOs estimated that 85 percent of all prisoners were awaiting trial. Many detainees remained in prison for more than 10 years without trial. For example, Aboubacar Sylla had been in the Conakry Prison without trial since his arrest in 1999 for armed robbery.

A number of those arrested were foreign nationals, current and former army officers under the previous regime, and their family members. For example, on November 15, security forces arrested Ousmane Conte and three associates, who remained in pretrial detention without charge at year's end. His brother, El Hadj Moussa Conte, was arrested on August 11 but released a few days later.

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary, but judicial officials often deferred to executive authorities. The judicial system was endemically corrupt. Magistrates were civil servants with no assurance of tenure, and authorities routinely accepted bribes in exchange for specific outcomes. Budget shortfalls, a shortage of qualified lawyers and magistrates, and an outdated and restrictive penal code limited the judiciary's effectiveness.

The judiciary includes courts of first instance, two courts of appeal, and the Supreme Court, which is the court of final appeal. The law provides for a parallel structure for juveniles. A military tribunal prepares and adjudicates charges against accused military personnel, to whom the penal code does not apply, although military courts provide the same rights as civil courts. Civilians were not subject to military tribunals.

In practice the two appeals courts that handle serious crimes rarely functioned, which contributed to lengthy pretrial detentions. By law the courts of appeal must hold a session once every four months, but there were no sessions during the year.

The state security court is composed of magistrates directly appointed by the president, and the verdict is open to appeal only on a point of law, not for the reexamination of evidence.

In February the CNDD created the Bureau of Conflicts, an alternate judicial system that adjudicated approximately 3,000 civil and criminal cases heard by military and police personnel. Many of these cases had been previously adjudicated (see section 1.f.). Lawyers had no part in these extralegal, extrajudicial proceedings. In May, after a judiciary strike to protest the creation and function of the bureau, Captain Camara disbanded it.

Many citizens wary of judicial corruption preferred to rely on traditional systems of justice at the village or urban neighborhood level. Litigants presented their civil cases before a village chief, a neighborhood leader, or a council of "wise men." The dividing line between the formal and informal justice systems was vague, and authorities sometimes referred a case from the formal to the traditional system to ensure compliance by all parties. Similarly, if a case was not resolved to the satisfaction of all parties in the traditional system, it could be referred to the formal system for adjudication. The traditional system discriminated against women in that evidence given by women carried less weight.

Trial Procedures.—Trials are public, and juries are used for criminal cases. Defendants have the right to be present and to consult with an attorney in a timely manner. Defendants have the right to confront and question prosecution witnesses and present witnesses and evidence on their behalf. The prosecution prepares a case file, including testimonies and evidence, and provides a copy for the defense. The law provides for the presumption of innocence of accused persons, the independence of judges, the equality of citizens before the law, the right of the accused to counsel, and the right to appeal a judicial decision; however, these rights were not consistently observed in practice. Although the government is responsible for funding legal defense costs in serious criminal cases, in practice it rarely disbursed funds for this purpose. The attorney for the defense frequently received no payment.

Political Prisoners and Detainees.—Following the September 28 massacre, there were reports of an unknown number political detainees being held at Camp Alpha Yaya and the Kassa military prison. However, junta officials denied the existence of political prisoners or detainees during the year.

Civil Judicial Procedures and Remedies.—The law provides for a judicial procedure in civil matters, including lawsuits seeking damages for human rights violations; however, it was neither independent nor impartial, and decisions were often

influenced by bribes and based on political and social status. There were no lawsuits seeking damages for human rights violations during the year. In practice domestic court orders were often not enforced.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and law provide for the inviolability of the home and require judicial search warrants; however, soldiers, police, and paramilitary police frequently ignored legal procedures in the pursuit of criminals or when it served personal interests. Soldiers repeatedly entered private residences and businesses to extort money and rob or threaten civilians.

On January 28, according to HRW, ten soldiers robbed a businessman in Conakry; they entered his pharmacy on the pretext of searching for counterfeit medicines. The soldiers reportedly removed 50 million Guinean francs (\$10,000) and forced the owner into their vehicle upon leaving. He was released within hours.

On March 30, the Bureau of Conflicts, an alternate judicial system created and subsequently disbanded during the year, overturned a Supreme Court decision involving a property dispute between a 73-year-old property owner and a neighbor who had allegedly purchased the land. According to HRW, when the elderly man refused to vacate the premises, military personnel arrived on April 2 and fired on the occupants, killing one civilian and wounding another.

Unlike in previous years, there were no reports of a designated family member serving out the sentence of a convicted relative.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution and law provide for freedom of expression and of press; however, the government generally did not respect these rights in practice. The law prohibits talk or chants in public that are perceived as seditious; establishes defamation and slander as criminal offenses; and prohibits communications that insult the president, incite violence, discrimination, or hatred, or disturb the public peace or security. Penalties include fines, revocation of press cards, imprisonment, and banishment. Journalists practiced self-censorship.

Citizens could generally criticize the government publicly and privately without fear of reprisal, but on several occasions the CNDD threatened or imprisoned individuals who did so. Following the events at the stadium on September 28, many journalists self-censored due to fear of retribution from security forces.

On November 26, HCAD officers arrested Mouctar Diallo, vice president of the Organization for the Defense of Human Rights, after an interview he gave to the foreign press regarding the September 28 massacre. Diallo remained at Camp Alpha Yaya at year's end.

Despite the limited reach of the print media due to low literacy rates and high prices of newspapers, the independent media were active and expressed a wide variety of views without official restrictions. The National Communications Council (CNC) provided financial subsidies to independent media organizations.

There were 13 private newspapers published weekly in Conakry, and approximately 100 other publications appeared sporadically; technical difficulties and high operating costs impeded regular publication. Two private newspapers were published irregularly in the regions of Labe and Kankan. Foreign publications, some of which criticized the government on a regular basis, were available both in print and electronic format.

The government published an official daily newspaper, *The Horoya*.

The government did not permit political parties or religious institutions to own media outlets and restricted programming on political and religious subjects. On August 31, the CNC suspended all political discussion on the radio. The ban was lifted on September 9.

The CNDD alternately praised and punished the media. Captain Camara met with the press on several occasions and offered them cash payments, subsidies, and lower taxes. On April 27, for example, Camara reportedly handed out a total of 230 million Guinea francs (\$46,000) "as a gift" to print media members. However, on July 13, after press reports ridiculed a CNDD statement claiming "narco-supported troops" were mobilizing on the country's borders, Camara threatened that he would "deal with" the media and any individual who contradicted his statements.

Private media were frequently excluded from government meetings, leaving only coverage from state-run media outlets. On several occasions security forces physically assaulted members of the private media who tried to attend these meetings and cover other events. For example, on March 12, the International Freedom of Expression Exchange (IFEX) reported that Presidential Guard members whipped, kicked, and robbed Saa Momori Koundouno, a reporter for a private Conakry radio station, while he was covering a clash between soldiers and youth protestors over the sale of a soccer field.

The government operated official television and radio stations. The state-owned media provided extensive and favorable coverage of the CNDD, replacing normal news content with coverage focusing almost exclusively on Captain Camara and other prominent CNDD figures. Opposition political party activities were not covered on national television, and several opposition political leaders reported that they were denied access to state-owned media outlets.

During the year security forces threatened, arrested, detained, harassed, and abused print journalists who criticized the government.

For example, on May 27, gendarmes arrested and detained Moise Sidibe, a prominent and outspoken newspaper critic of the CNDD, and took him to Camp Alpha Yaya, where he reportedly was beaten and tortured. Sidibe was released on June 8 after his family paid a bribe.

On August 3, judicial police detained Aboubacar Sylla, founder of L'Independent newspaper and head of the political party Union of Forces for Change (UFC), after he criticized the CNDD during a press conference. Sylla was released later that day without explanation.

According to IFEX, on August 9, soldiers arrested Amara Camara, editor of the private newspaper Le Confidentiel, after he disputed a statement HCAD Minister Tiegboro made regarding the danger posed by drugs found in a Conakry neighborhood. The soldiers reportedly took Camara to Camp Alpha Yaya under the minister's orders and released him two days later.

Unlike in the previous year, no newspapers were suspended for libelous reporting.

Radio remained the most important source of information for the public. Twenty-one private radio stations broadcast throughout the year, including 19 in the capital, one in Kankan, and one in Kamsar. There were also 12 rural and community radio stations in other parts of the country. Many citizens listened regularly to foreign-origin short-wave radio.

On August 13, members of the Presidential Guard arrested Hajaar Souhel, director general of the private Radio Nostalgie FM, as he was preparing the station's anniversary celebration at the People's Palace. Souhel was taken to the military barracks and released later that night with no explanation.

Unlike in the previous year, no radio stations were suspended.

The government did not restrict access to or distribution of foreign television programming via satellite or cable; however, relatively few citizens could afford these services.

On August 27, police arrested and detained Diarouga Balde, an independent Internet journalist and reporter at the national television station, for photographing protesters during an antigovernment demonstration in Conakry. Balde was released the following day without explanation or charge.

Internet Freedom.—There generally were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms; however, on August 25, the CNDD ordered the four major cell phone companies to suspend text-messaging capabilities following a series of text messages that urged protests against the CNDD; the suspension lasted two days. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. The Internet was a major platform for voicing criticism against the CNDD, with the most popular sites managed by diaspora members outside of the country. The Internet was available in the capital city and in a few larger towns, but fewer than 1 percent of the country's inhabitants used the Internet, according to 2008 International Telecommunication Union statistics. Cost, illiteracy, and lack of availability remained major constraints to use by a broad range of citizens.

Academic Freedom and Cultural Events.—The Ministry of Pre-University, Technical, Professional, and Civic Education and Scientific Research exercised limited control over academic freedom through its influence on faculty hiring and control over the curriculum; however, teachers generally were not subject to classroom censorship.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The law restricts freedom of assembly and bans any meeting that has an ethnic or racial character or any gathering "whose nature threatens national unity." The government requires a 72-working-hour advance notification of public gatherings. The law permits local authorities to cancel a demonstration or meeting if they believe it poses a threat to public order. Authorities may also hold event organizers criminally liable if violence or destruction of property ensues.

Security force use of excessive force to disperse demonstrators resulted in hundreds of deaths and injuries during the year, particularly during the September 28 security force stadium massacre (see section 1.a.).

On August 17, security forces killed Mohamed Camara, a youth protesting the lack of electricity in Kamsar.

Immediately after the December 2008 coup, the CNDD imposed a ban on public demonstrations and lifted the ban on March 14. Following a September 27 opposition statement on radio and television calling for a demonstration against the junta on September 28, the CNDD issued a ban against any demonstrations or public gatherings scheduled for that day. On September 30, the junta banned any public demonstration or gathering "until further notice." This ban was in affect for the remainder of the year.

During the year there was no punitive action against the soldiers who shot and wounded three youths during a peaceful August 2008 demonstration in Kamsar.

Freedom of Association.—The constitution and law provide for freedom of association; however, the government infringed on this right in practice. The government imposed cumbersome requirements to obtain official recognition for public, social, cultural, religious, or political associations. Most of the restrictions focused on political associations. For example, political parties had to provide information on their founding members and produce internal statutes and political platforms consistent with the constitution before the government recognized them.

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

The Secretariat General of Religious Affairs is responsible for providing liaison with all active religious groups in the country.

Approximately 85 percent of the population practiced Islam, and most of these adhered to Sunni teachings and practices. Non-Muslims were represented in the presidency, cabinet, administrative bureaucracy, and the armed forces. However, the government continued to refrain from appointing non-Muslims to important administrative positions in certain parts of the country in deference to the particularly strong social dominance of Islam in these regions.

Societal Abuses and Discrimination.—Relations among the various religions were generally amicable; however, in some parts of the country, Islam's dominance created strong societal pressure that discouraged conversion from Islam or land acquisition for non-Islamic religious use.

There were few Jews in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution and law provide for freedom of movement, foreign travel, emigration, and repatriation; however, authorities at times infringed on these rights. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees and asylum seekers.

The government requires all citizens to carry national identification cards, which they must present on demand at security checkpoints.

During the year police and security forces increased detentions of persons at military roadblocks to extort money, impeding the free movement of travelers and threatening their safety.

On three separate occasions in August, security personnel prevented the airport departure of opposition leaders Alpha Conde of the Rally of The Guinean People (RPG), Sydia Toure of the Union of Republican Forces (UPR), and Cellou Dalein Diallo of the Union of Democratic Forces of Guinea (UFDG) until Captain Camara personally authorized their departures.

The law does not prohibit forced exile, but the government did not use it.

Protection of Refugees.—The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. There is a government-established system providing protection to refugees through an advisor on territorial issues within the Ministry of Territorial Administration. In practice the government generally provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened.

The country was a place of refuge for asylum seekers from neighboring countries in conflict, including Liberia, Sierra Leone, Cote d'Ivoire, and Guinea Bissau. At year's end the UNHCR and the National Bureau for Refugee Coordination estimated that the total refugee population was 15,325, the majority of whom were Liberians. At year's end the UNHCR reported that only three refugee camps remained operational.

The government, in coordination with the UNHCR, assisted the safe, voluntary return of Liberian refugees to Liberia and facilitated local integration for Liberian refugees unwilling or unable to return to their homes.

During the year the government, with the UNHCR, continued to facilitate the local integration of approximately 1,000 Sierra Leonean refugees whose status had been revoked.

During the year the government continued to provide temporary protection to approximately 66 individuals of various African nationalities who may not qualify as refugees under the 1951 Convention or the 1967 Protocol.

Unlike in previous years, there were no reports of rape, assault, or forced prostitution in refugee camps. Tension continued between host communities and refugee populations because of disparities in living standards and tribal conflicts, although these tensions were less apparent than in previous years. Economic decline in the country continued to exacerbate situations where refugees received basic services and opportunities unavailable to citizens. The UNHCR continued to offer financial support for the rehabilitation of communities severely affected after 18 years of hosting refugees.

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

The constitution and law provide for a popularly elected president and National Assembly, and for the National Assembly president to assume power in the event of the president's death; however, the military junta that seized power after former president Conte's death in December 2008 suspended the constitution, dismissed the National Assembly, and had neither scheduled nor conducted elections by year's end. The constitution provides that a presidential election be organized within 60 days of the president's death.

After the December 3 attempted assassination of CNDD president Camara, defense minister and CNDD vice-president Sekouba Konate assumed control of the country as interim president while Camara recuperated in Morocco at year's end.

On November 3, the CNDD and the opposition coalition "Les Forces Vives" began separate mediation talks facilitated by the Economic Community of West African States (ECOWAS) to resolve the political crisis. Burkina Faso's president Blaise Compaore was the ECOWAS-appointed mediator. No agreement was reached by the end of the year.

Elections and Political Participation.—The last national election, in which the late president Conte won reelection, was held in 2003. All major opposition parties boycotted the election, criticized by international observers as neither free nor fair. In 2002 the government held municipal and legislative elections, and 16 of 46 registered political parties participated, including all the major opposition parties. According to official results, President Conte's ruling Party for Unity and Progress (PUP) and associated parties won 91 of the 114 seats in the National Assembly. The PUP also garnered approximately 80 percent of the vote with certified victories in 31 of 38 municipalities and 241 of 303 local councils.

The local electoral process in 2003 was characterized by both improvements over past practice as well as serious flaws. Positive developments included freer campaigning, a single ballot listing all parties, transparent ballot boxes, political parties represented at the polling stations, media coverage of events, and free access for national observers. However, the turnout was low, and there were significant irregularities and bias by officials towards the ruling party before and during the vote. These included government revision of voter rolls with limited oversight, exclusion of up to 50 percent of the opposition candidate lists, unequal provision and distribution of voter registration cards and identity documents, and susceptibility to cheating in the district-level vote consolidations.

On March 14, the CNDD lifted the ban on political and union activity that had been in force since the December 2008 coup. With the lifting of the ban, more than 60 new political parties were launched during the year, bringing the total number of political parties to more than 100. The government limited the ability of opposition parties to organize and publicize their views.

For example, on June 18, local authorities and military personnel prohibited UFDG leader Cellou Dalein Diallo and a delegation from campaigning in Kerouane. Soldiers also stopped the UFDG campaign outside of Kankan and escorted the delegation out of the city. In August local officials prohibited Francois Lounceny Fall, chairman of the United Front for Democracy and Change party, from campaigning in the Boke region. The local prefect also prohibited Fall from campaigning in Siguiri.

Connection to Captain Camara, his powerful associates, or the CNDD often conferred exemptions from taxes and other fiscal obligations.

Four women held seats in the 33-member cabinet appointed by the CNDD in January. There were four women at senior levels below minister, and women held leadership positions in three political parties.

The Supreme Court and cabinet leadership included representatives of all major ethnic groups.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. Corruption remained widespread throughout all branches of government. The World Bank's Worldwide Governance Indicators reflected that corruption was a severe problem. Public funds were diverted for private use or for illegitimate public uses, such as buying expensive vehicles for government workers. Land sales and business contracts generally lacked transparency.

During the year the CNDD declared the elimination of corruption a high priority. On January 13, Captain Camara created the National Audit Commission to investigate corruption charges against members of the Conte regime. Commission members reportedly were authorized to personally retain 10 percent of any recovered funds. The audit process lacked transparency, and by year's end the commission had not issued any reports on its activities or released the amount of funds collected.

The CNDD arrested several members of the former administration suspected of embezzling state funds. On March 6, four former ministers of mines—Ousman Sylla, Louceny Nabe, Ahmed Tidiane Diallo, and Ahmed Kante—were arrested for alleged mismanagement of the government's mining fund. Captain Camara and other CNDD members presided over the investigation, which was conducted on national television. Sylla, Nabe, and Diallo admitted responsibility for the missing funds and agreed to pay back between 200 million and 500 million Guinean francs (\$41,000-\$103,000), according to a repayment schedule. Kante denied any wrongdoing and remained in jail without trial at year's end.

In May Captain Camara announced the formation of another audit commission that would review 24 years of the Conte administration and the first six months of the CNDD regime. However, by year's end this commission's activities were temporarily on hold.

Public officials were not subject to public disclosure laws.

There is no law providing free access to government information. The government disseminated some information through radio, national television, and government-owned print media. Unlike in previous years, the government did not routinely publicize the deliberations of the weekly cabinet meetings; however, the junta frequently broadcast lengthy speeches and deliberations. The national television station broadcast announcements of presidential decrees and other government decisions. Most other government information was not available to the public, and there was no mechanism to request it formally.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. The government met with domestic NGO monitors, but it did not respond to their inquiries or respond to NGO reports and recommendations during the year.

On November 26, HCAD officers arrested Mouctar Diallo, vice-president of the Organization for the Defense of Human Rights (see section 2.a). Diallo remained in detention at Camp Alpha Yaya at year's end following two trial delays.

The government facilitated visits by a number of international human rights NGOs and generally cooperated with such organizations; however, none were permitted access to military prisons. The government generally cooperated with international governmental organization and permitted visits by UN representatives.

On June 24, HRW recommended that the minister of high crimes and anti-drugs, Tiegboro Camara, publicly retract his statements encouraging vigilante justice and the burning of criminals (see section 1.c.). The minister had not responded by year's end.

On October 8, the CNDD established a National Commission of Investigation (CNEI) to investigate the September 28 massacre. The CNEI did not include representatives from the opposition, labor unions, or civil society. On December 16, the head of the CNEI, Siriman Kouyate, stated that eyewitness accounts of the sexual assaults of women on September 28 were false. The CNEI did not release an official report by year's end.

From November 25 to December 4, representatives of the UN Commission of Inquiry (COI) conducted an investigation of the September 28 massacre. The COI determined that there was sufficient evidence to suggest that the September 28 violence included "crimes against humanity." The COI reported that three individuals might be found personally and criminally liable for those crimes: Captain Camara, Minister Tiegboro Camara, and Lieutenant Colonel Diakite Toubma. There was no official government response to the COI findings by year's end.

The government has several mechanisms for addressing human rights issues, including a national directorate within the ministries of justice, defense, and interior. However, these organizations did not conduct investigations during the year.

Due to lack of funds, an independent commission of inquiry, established in 2007 to investigate human rights abuses committed by security forces during the 2007 general strike, did not formally start its investigation by year's end.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law states that all persons are equal before the law regardless of gender, race, ethnicity, language, beliefs, political opinions, philosophy, or creed; however, the government did not enforce these provisions uniformly.

Women.—Rape is a criminal offense but was rarely prosecuted. Spousal rape is neither punished nor regarded as a criminal offense. Social beliefs and fear of being ostracized prevented most victims from reporting incidents of rape. According to a 2003 study, victims of sexual assault constituted more than 20 percent of women treated in a local hospital. Experts reported that the situation had not changed significantly. Many of these assaults were perpetrated by a person the victim knew and often took place at school; more than half the victims were young girls. Several local NGOs worked to increase public awareness of the nature of these crimes and promote increased reporting. The authorities were reluctant to pursue criminal investigations of alleged sexual crimes. There were no reports of prosecutions against rapists.

Domestic violence against women was common, although estimates of its prevalence were unavailable. Due to fear of stigmatization and reprisal, women rarely reported abuse except at the point of divorce. Wife beating is not addressed specifically within the law, although charges can be filed under general assault, which carries penalties ranging from two to five years in prison and fines ranging from 50,000 to 300,000 Guinea francs (\$11 to \$65). Assault constitutes grounds for divorce under civil law; however, police rarely intervened in domestic disputes, and there were no reports of perpetrators being punished.

Prostitution is illegal, but it was widely practiced and generally tolerated.

In April security forces raided areas in Conakry frequented by prostitutes and detained numerous prostitutes, their customers, and uninvolved bystanders. The CNDD shaved the heads of the prostitutes, who were questioned and paraded on national television. The women, who were released within the week, were never formally charged.

Sexual harassment is not against the law. Women working in the formal sector in urban areas complained of frequent sexual harassment, and it was not penalized by employers.

Couples and individuals had the right to decide freely on the number, spacing, and timing of their children, and generally had access to information on how to do so without fear of discrimination, coercion, or violence. Women generally had equal access to diagnoses and treatment for sexually transmitted infections, including HIV. However, cultural norms and taboos reportedly dissuaded individuals from taking advantage of opportunities to learn about reproductive health or seek health services for sexually transmitted infections.

The law provides for equal treatment of men and women, and the Ministry of Social Affairs and Women's and Children's Issues worked to advance such equality; however, women faced discrimination throughout society, particularly in rural areas, where opportunities were limited. Women were not denied access to land, credit, or businesses, but inheritance laws favor male heirs over female heirs. Government officials acknowledged that polygyny was a common practice. Divorce laws generally tend to favor men in awarding custody and dividing communal assets. Legal evidence given by women carried less weight than testimony by men, in accordance with Islamic precepts and customary law. Although the principle of equal pay for equal work exists, in practice women received lower pay than men. No steps were taken to implement the 2007-11 action plan on women's empowerment.

Children.—Citizenship in Guinea can be derived by birth, marriage, naturalization, or parental heritage.

Exact figures were not available, but the government did not systematically register births and issue birth certificates, leaving a significant number of children

without official documentation and thereby impeding their access to school and health care.

Government policy provides for tuition-free, compulsory primary school education for six years, and enrollment rates were significantly higher than in recent years, although generally low by international standards. While girls had equal access to all levels of primary and secondary education, social norms and practices resulted in significantly lower attendance rates at the secondary level.

Child abuse, particularly sexual assault, was a serious problem. Girls between the ages of 11 and 15 years were most vulnerable and represented more than half of all rape victims.

Ritual murders occurred, although the extent of the practice was unknown due to cultural taboos and a general unwillingness to speak on the subject. On March 16, a three-year-old child was abducted from his Conakry home and killed. His throat was cut, his eyes removed, and his abdomen slit open in a manner reportedly consistent with ritualistic ceremonies involving human sacrifice. The alleged killer and accomplice were being held in Conakry Prison and awaiting trial at year's end.

FGM was practiced widely in all regions among all religious and ethnic groups, and was performed on girls between the ages of four and 17. FGM is illegal and carries a penalty of three months in prison and a fine of approximately 100,000 Guinea francs (\$22), although there were no prosecutions during the year. According to a 2005 Demographic and Health Survey (DHS), FGM prevalence was 96 percent nationwide, a slight decline from the 99 percent prevalence rate reported in the 1999 DHS. Infibulation, the most dangerous form of FGM, was rarely performed.

The government continued efforts to eradicate FGM and to educate health workers on the dangers of the practice; however, there were no statistics evaluating the success of the program. The government supported the efforts of the Coordinating Committee on Traditional Practices Affecting Women's and Children's Health (CPTAFE), a local NGO dedicated to eradicating FGM and ritual scarring. The CPTAFE reported high rates of infant mortality and maternal mortality due to FGM.

The number of men and women opposed to FGM continued to increase. Urban, educated families increasingly opted to perform only a slight, symbolic incision on a girl's genitals rather than the complete procedure. The NGO TOSTAN was successful in bringing together many communities to declare their intention to abandon FGM and early or forced marriage. Recognizing traditional practices that encouraged FGM, TOSTAN helped establish binding social contracts in which families agreed to accept a woman who had not undergone FGM to marry one of their sons. Continued efforts by NGOs to persuade communities to abandon FGM resulted in thousands of families ending the practice. For example, in June a total of 67 communities in the N'Zerekore region declared an end to FGM, and by year's end approximately 364 communities throughout the country had publicly declared an end to FGM, underage and forced marriages, and other harmful traditional practices.

The legal age for marriage is 21 years for men and 17 years for women. Although there were no official reports of underage marriage, it was a problem. Parents contracted marriages for girls as young as 11 years of age in the Fouta and Forest regions. During the year six young female inmates, who claimed in 2008 to have murdered their husbands in Kankan after having been forced into marriage, were convicted. No further information was available at year's end. The CPTAFE, in conjunction with the government, local journalists, and international NGOs, continued to run an education campaign to discourage underage marriage and reported lower rates than in previous years. According to the CPTAFE, some families that sanctioned early marriages nevertheless kept their married daughters in the family home until they had at least completed secondary school.

There were no official statistics available on the number of street children.

Trafficking in Persons.—Although the law prohibits trafficking in persons, the country was a source, transit point, and destination point for trafficked persons. The law carries a penalty of five to 10 years' imprisonment and confiscation of any money or property received as a result of trafficking activities. The government did not prosecute or convict any traffickers during the year.

The HCAD and the Ministry of Social Affairs were responsible for combating trafficking. The Ministry of Social Affairs chaired the interagency antitrafficking committee. The level of coordination between the two ministries was unclear. Accurate statistics were difficult to obtain because victims did not report the crime, but the practice was believed to be widespread. Children were the primary victims of trafficking, and internal trafficking was more prevalent than transnational trafficking. Within the country, girls were trafficked primarily for domestic servitude and sexual exploitation, while boys were trafficked for forced agricultural labor and as forced

beggars, street vendors, shoe shiners, and laborers in gold and diamond mines. Some men were also trafficked for agricultural labor within the country.

Girls from Mali, Sierra Leone, Nigeria, Ghana, Liberia, and Senegal were trafficked into the country for domestic servitude and sexual exploitation. Guinean women and girls were trafficked to Nigeria, Cote d'Ivoire, Benin, Senegal, Greece, and Spain for domestic servitude and sexual exploitation. Chinese men in the country trafficked Chinese women for commercial sexual exploitation. Networks also trafficked women from Nigeria, India, and Greece through the country to the Maghreb countries and Europe.

On February 3, Captain Camara issued a declaration giving security personnel blanket authority to shoot anyone caught trafficking children; however, there were no such shootings during the year.

In March Alpha Samba, a 12-year-old Sierra Leonian boy escaped after being kidnapped, drugged, and transported from Sierra Leone to Kindia. On March 4, a judge ruled that Samba was a victim of trafficking and authorized the NGO Sabou Guinee, along with the International Organization for Migration, to care for Samba and locate his parents. The government repatriated Samba, but his trafficker had not been apprehended by year's end.

In March, according to the NGO Sabou Guinee, four sisters (Kanny, Saran, Batrou, and Fatou Sangare) were returned to their home in Kankan after their mother took them to a trafficker in Liberia. No action against the mother was taken during the year.

In January Liberian authorities handed over a trafficker suspected of the July 2008 kidnapping and transporting of 12-year-old Aboubacar Camara to Liberia. The alleged trafficker was detained in Macenta at year's end.

There were no arrests or developments in the February 2008 case of the truck driver who attempted to traffic three children into Liberia or the March 2008 suspected trafficking of 11 children from Koundara to Senegal.

The government renewed the National Action Plan to Combat Trafficking in Persons at the beginning of the year; however, there were no resources to implement the plan. During the year the National Committee to Combat Trafficking did not take actions to implement the 2005 agreement with Mali to combat trafficking in both countries.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The law does not prohibit discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. There were no official reports of societal or governmental discrimination against persons with disabilities. The government had not mandated accessibility for persons with disabilities, and buildings and vehicles remained inaccessible. Few persons with disabilities worked in the formal sector; some worked in the informal sector in small family-run businesses, and many lived by begging on the streets. The Ministry of Social Affairs is responsible for protecting the rights of persons with disabilities, but it was not effective in practice.

In March the UN reported that military personnel forcibly removed approximately 180 families with members with disabilities from their shacks in downtown Conakry near a mosque where they begged. Prior to their removal, representatives of the group reportedly asked the Ministry of Social Affairs to intervene on their behalf with the government or relocate their families.

National/Racial/Ethnic Minorities.—The country's population was ethnically diverse, with three main ethnic groups and several smaller ethnic groups identifying with specific regions. Three major ethnicities form the majority of the population: the Soussou in lower Guinea, the Peuhl in middle Guinea, and the Malinke in upper Guinea. There were smaller ethnic groups in the Forest Region and throughout the country. Conakry and other large urban areas such as Kankan and the Forest Region were ethnically heterogeneous.

While the law prohibits racial or ethnic discrimination, ethnic identification was strong.

Mutual suspicion, both inside and outside the government, affected relations across ethnic lines. Widespread societal ethnic discrimination by members of all major ethnic groups was evident in private sector hiring patterns, in the ethnic segregation of urban neighborhoods, and in the relatively low levels of interethnic marriage. Under CNDD leadership, a disproportionate number of ethnic Forestiers started receiving special privileges, such as better access to government jobs and contracts. This practice contributed to resentment on the part of other ethnic groups.

The major opposition parties had readily identifiable ethnic and regional bases. For the UPR and UFDG, the ethnic base was Peuhls, while for the RPG, it was the Malinke.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—There were no laws criminalizing sexual orientation, although there were deep social, religious, and cultural taboos against homosexual conduct. There were no official or NGO reports of discrimination against individuals based on their sexual orientation. There were no lesbian, gay, bisexual, or transgender organizations active during the year, but there were no legal impediments to the operation of such groups.

Other Societal Discrimination.—Reports of discrimination national organizations worked to end the stigma associated with HIV/AIDS. Most victims of stigmatization were women, who were frequently abandoned by their families after their husband died of AIDS.

Doctors and health workers routinely disregarded medical confidentiality standards resulting in widespread distrust of testing. During the year a domestic worker in Conakry was fired after her physician reported her November 2008 HIV test results to her employer. The employer also informed the community of the results to prevent future employment of the worker.

Section 7. Worker Rights

a. The Right of Association.—The law and constitution provide for the right of employees, except for military and paramilitary personnel, to form and join independent labor unions. However, a ban on union activity imposed by the CNDD in December 2008 was in place until March 14 and was imposed again on September 30. The ban remained in place at year's end.

The labor code requires elected worker representatives for any enterprise employing 25 or more salaried workers. Although labor statistics were inadequate, at least 167,000 workers were reportedly unionized.

The law grants salaried workers, including public sector civilian employees, the right to strike 10 days after their representative union makes known its intention to strike, and workers exercised this right a few times over the year. By law, arbitration is by consensus and is executed through the Office of the Inspector General of Work within the Ministry of Labor (MOL). In practice, however, employers can impose binding arbitration. The law prohibits strikes in essential services, including hospitals, police, the military, transport, radio and television, and communications.

Unlike in the previous year, the government did not break up strikes with violence. No investigation was made into the violent dispersal of a June 2008 police strike, which resulted in the deaths of 14 police officers.

b. The Right to Organize and Bargain Collectively.—Under the labor code, representative workers' unions or union groups may organize in the workplace and negotiate with employers or employer organizations, and workers exercised this right in practice. The law protects the right to bargain collectively for wages and salaries without government interference. Employers established rules and hours of work in consultation with union delegates, and this law was generally respected in practice.

There were no reports of antiunion discrimination during the year. Employers generally did not interfere in or prohibit labor union activities. There were no reports of workers being fired because of labor activity.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law specifically prohibits forced or compulsory labor, including by children; however there were reports that child labor was a problem.

Gold and diamond mines routinely exploited minors who worked long hours extracting, transporting, and cleaning the minerals. Local NGOs reported that children lived in extreme conditions without water and electricity. Diseases and illnesses were common and there were reports of children being denied contact with family members. A 2006 study by the NGO AGRAAD reported that 45 percent of the workers at the Dandano gold mine were children ranging in age from seven to 16, approximately 30 percent of whom were working with an adult relative in the mine.

The law prohibits the exploitation of vulnerable persons for unpaid or underpaid labor. Violations carried a penalty of six months' to five years' imprisonment and a fine of approximately 50,000 to 382,500 Guinea francs (\$11 to \$83). However, the government did not enforce this provision in practice.

d. Prohibition of Child Labor and Minimum Age for Employment.—The general labor code and the child code have specific provisions that pertain to child labor; however, the government did not enforce the laws effectively. Child labor was a seri-

ous problem and government and NGO sources indicated that exploitative child labor was common.

By law the minimum age for employment is 16 years. Apprentices may start to work at 14 years of age. Workers and apprentices under the age of 18 are not permitted to work at night, for more than 10 consecutive hours, for more than 12 consecutive days, or on Sundays. The labor code also stipulates that the MOL maintain a list of occupations in which women and youth under the age of 18 cannot be employed. In practice enforcement by ministry inspectors was limited to large firms in the modern sector of the economy.

According to a 2007 HRW report, nearly all children engaged in some type of work, many in the worst forms of child labor. Child labor occurred most frequently in the informal sectors of subsistence farming, small-scale commerce, and mining. Many children were exploited or enslaved as domestics in the urban sector, as miners, or as plantation workers. A 2007 HRW report stated that tens of thousands of girls worked as domestics, many of them for up to 18 hours a day with little or no compensation. Some girls allegedly suffered beatings, sexual harassment, and rape. Family members or employers allegedly forced some to prostitute themselves to earn enough money to survive. The government did not take action when prostitution of minors was brought to its attention, and it did not actively monitor child or adult prostitution.

According to both official and NGO sources, many children between the ages of five and 16 worked 10 to 15 hours a day in the diamond and gold mines for minimal compensation and little food. Child laborers extracted, transported, and cleaned the minerals. Children were described as living in extreme conditions without access to water or electricity and exposed to constant threat of disease and sickness. According to NGOs, the children did not attend school and reportedly were prevented from contacting their parents.

At an artisanal gold mine in Siguiri, a foreign observer noted hundreds of children working and exposed to extremely hazardous environmental conditions, including working in and around mine shafts that were approximately 160 feet deep. Children worked with no protective clothing and were injured from accidental falls into the shafts.

Many young Muslim children sent to live with a Koranic master (marabout) for instruction in Arabic, Islam, and the Koran worked for the teacher as payment. Rural families often sent children to Conakry to live with family members while they attended school. If the host family was unwilling or unable to pay school fees, the children sold water or shined shoes on the streets, and the host family took the money in exchange for their room and board or simply used the child as a cheap source of domestic labor.

Although statistical data was unavailable, there were reports that children were sold into exploitative labor through child trafficking.

The former Conte government spoke out against child labor but lacked the resources and enforcement mechanisms to combat the problem. The MOL is responsible for enforcing child labor laws, but it conducted no child labor inspections or investigations and prosecuted no court cases during the year.

e. Acceptable Conditions of Work.—The labor code allows the government to set a minimum hourly wage enforced by the MOL; however, the government did not exercise this provision, nor did it promote a standard wage. Prevailing wages routinely did not provide a decent standard of living for a worker and family.

The labor code mandates that regular work should not exceed 10-hour days or 48-hour weeks, and it also mandates a period of at least 24 consecutive hours of rest each week, usually on Sunday. Every salaried worker has the legal right to an annual paid vacation, accumulated at the rate of at least two workdays per month of work. There also are provisions in the law for overtime and night wages, which are fixed percentages of the regular wage. In practice authorities rarely enforced these rules. The government rarely monitored employers' work practices or sanctioned them for failure to follow the law.

Teachers' wages were extremely low, and teachers sometimes went six months or more without pay. Salary arrears were not paid, and some teachers lived in abject poverty.

The labor code contains general provisions regarding occupational safety and health, but the government has not established a set of practical workplace health and safety standards. Moreover, it has not issued any orders laying out the specific requirements for certain occupations and for certain methods of work that are called for in the labor code. The MOL is responsible for enforcing labor standards, and its inspectors are empowered to suspend work immediately in situations hazardous to health. Enforcement efforts were sporadic.

In early May the Siguiri gold mine collapsed; 13 adult miners were killed and an unknown number were injured. Local authorities had recognized that the mine was dangerous and had discouraged the miners from accessing the area; however, the miners had returned at night to work the mine.

Working conditions were worse in the private sector, excluding banking, insurance, and other similar institutions.

Under the labor code, all workers, including foreign and migrant ones, have the right to refuse to work in unsafe conditions without penalty; however, many workers feared retaliation and did not exercise this right in practice.

GUINEA-BISSAU

Guinea-Bissau is a multiparty republic with a population of approximately 1.7 million. On July 26, Malam Bacai Sanha of the African Party for the Independence of Guinea and Cape Verde (PAIGC) was elected president in elections that international observers declared free and fair; Carlos Gomes, Jr., was appointed prime minister on January 2 by former president Joao Bernardo Vieira. The presidential election followed the March 2 assassination of former president Vieira by the military as revenge for the bombing death a few hours earlier of former armed forces chief of staff General Jose Batista Tagme Na Waie. Speaker of Parliament Raimundo Pereira served as interim president between the assassination and Sanha's election. During the year members of the military were responsible for assassinating the president, the former armed forces chief of staff, a member of parliament, and a presidential candidate, providing further evidence that civilian authorities did not maintain effective control of the security forces.

Human rights abuses included the following: arbitrary and politically motivated killings; beatings and torture; poor conditions of detention; arbitrary arrest and detention; lack of judicial independence and due process; interference with privacy; journalist intimidation; widespread official corruption, exacerbated by suspected government involvement in drug trafficking, and impunity; violence and discrimination against women; female genital mutilation (FGM); child trafficking; and child labor, including some forced labor.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents committed arbitrary or unlawful killings, including killings that were politically motivated.

On March 1, the armed forces chief of staff, General Jose Batista Tagme Na Waie, was killed when a bomb detonated under the stairway leading to his office in military headquarters. On March 2, hours after the assassination of Na Waie, soldiers under the command of Colonel Antonio Indjai tortured and then hacked to death with machetes President Vieira in what was generally considered retaliation for the killing of Na Waie. Navy commander Jose Zamora Induta initially said the president was shot after admitting that he ordered the killing of Na Waie, although Induta subsequently denied any connection between the killings. Observers noted that the longstanding tension between Vieira and Na Waie had increased due to Na Waie's November 2008 accusation that Vieira was involved in the drug trade. It was unclear whether the killings were linked to the growing cocaine trade out of West Africa, but Vieira and senior military officers had been accused of profiting from it.

The government convened a national commission of inquiry that launched its investigation of the Vieira and Na Waie killings on March 11, but no one was identified or charged for Vieira's or Na Waie's killings by year's end.

On June 5, military personnel beat, shot, and killed National Assembly deputy Helder Proenca, his bodyguard, and his driver on the outskirts of Bissau. Proenca, who had been accused on June 5 by Colonel Samba Djalo, chief of the Military Information and Security Service, of plotting to overthrow the government, reportedly was killed while resisting arrest. On November 20, the state attorney general filed a criminal complaint against Djalo; however, no perpetrators were formally identified or punished for Proenca's death by year's end.

Also on June 5, soldiers shot and killed presidential candidate and national assemblyman Baciro Dabo in his bed. The soldiers accused Dabo of being involved with Proenca in plotting to overthrow the government. No perpetrators were identified or punished for Dabo's death by year's end.

There were no developments in the April 2008 killing of a judicial police officer by security forces.

During the year Alexandre Tchama Yala, the suspected leader of a November 2008 coup attempt in which two presidential guards were killed, escaped detention, and was rumored to be at large in Bissau at year's end.

There were no developments in the case of the 2007 execution-style killing of former commodore Lamine Sanha.

Unexploded ordnance resulted in four deaths and 10 injuries during the year.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution and law prohibit such practices; however, armed forces and security forces did not always respect this prohibition. The government did not punish members of the security forces who committed such abuses.

On March 2, military personnel reportedly tortured former president Vieira before killing him in his home (see section 1.a.).

On March 23, military members forcibly removed lawyer Pedro Infanda from his office in Bissau to a military installation, where he reportedly was beaten and tortured for four days, denied medical treatment, and released. Infanda had stated in a March 23 press conference that the appointment of Jose Zamora Induta as armed forces chief of staff following Na Waie's death was not in accordance with the proper order of succession. No action was taken during the year against those responsible for the torture and abuse.

On April 1, soldiers beat former prime minister Francisco Fadul during his detention at armed forces headquarters. Faustino Imbali was arrested on June 5 and held without charge for two months after calling on the government to hold accountable security force members responsible for the military assassinations of then president Vieira and then armed forces chief of staff Na Waie, and for characterizing the assassinations as a de facto coup.

On October 14, journalist Mario de Oliveira was verbally abused and beaten during his detention following a *Donos da Bola* newspaper publication of an interview with the minister of the interior, Major Samba Djalo.

Prison and Detention Center Conditions.—There were no prisons or detention centers in which to incarcerate convicted criminals and suspects, and the government detained most prisoners in makeshift detention facilities on military bases in Bissau and neighboring towns. Conditions of confinement were poor. Detention facilities generally lacked running water and adequate sanitation. Detainees' diets were poor and medical care was virtually nonexistent. Pretrial detainees were held together with convicted prisoners, and juveniles were held with adults.

The government permitted some independent monitoring of detention conditions by local and international human rights groups. During the year representatives from the UN Peace-Building Support Office in Guinea-Bissau (UNOGBIS) visited prisoners. The government also permitted visits to detention locations by the Human Rights League of Guinea-Bissau (LGDH). The government required advance scheduling of visits and did not permit regular repeated visits.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention, and the government generally observed these prohibitions; however, security forces arbitrarily arrested persons and were involved in settling personal disputes, sometimes detaining persons upon request without full due process.

Role of the Police and Security Apparatus.—The country is divided into 37 police districts, and there were an estimated 3,500 police in nine different police forces reporting to seven different ministries. The approximately 100 officers of the judicial police, under the Ministry of Justice, have primary responsibility for investigating drug trafficking, terrorism, and other transnational crime, while the 1,300 members of the public order police, under the Ministry of Interior, are responsible for preventive patrols, crowd control, and conventional maintenance of law and order. Other police forces include the state information service, the border service, the rapid intervention force, the maritime police, and other groups.

Police were ineffective, poorly and irregularly paid, and corrupt. Police could not afford fuel for the few vehicles they had, and there was a severe lack of training. Police in Gabu received more equipment during the year but had received no formal police training since 1996. However, judicial police received narcotics investigative training in Brazil, Cape Verde, and Portugal. Transit police were particularly corrupt and demanded bribes from vehicle drivers, whether their documents and vehicles were in order or not. Impunity was a problem. Corruption and a lack of detention facilities and vehicles frequently resulted in prisoners simply walking out of custody in the middle of investigations. The attorney general was responsible for in-

vestigating police abuses; however, employees of the attorney general were also poorly paid and susceptible to threats and coercion.

According to the constitution, the armed forces are responsible for external security and can be called upon to assist the police in internal emergencies. However, during the year members of the military assassinated the president, the armed forces chief of staff, a member of parliament, and a presidential candidate (see section 1.a.). After the assassination of Na Waie, members of the military usurped the chain of command and imposed naval captain Jose Zamora Induta as the interim armed forces chief of staff and Colonel Antonio Indjai as his deputy. Induta and Indjai were formally appointed by presidential decree on March 15.

Soldiers also released imprisoned soldiers who were suspects in the November 2008 coup attempt. Following the July 2008 grounding at Bissau airport of a plane suspected of transporting narcotics, members of the armed forces tampered with evidence and interfered with the investigation.

Military members also tortured and arbitrarily detained political opponents during the year.

Arrest Procedures and Treatment While in Detention.—The law requires arrest warrants, although warrantless arrests often occurred. The law requires that detainees be brought before a magistrate within 48 hours after arrest and that prisoners be released if no timely indictment is filed; however, authorities did not always respect these rights in practice. In general, detainees were informed promptly of charges against them, but some military detentions involved no notification of charges. The law provides for the right to counsel and to counsel at state expense for indigent clients; however, lawyers did not receive compensation for their part-time public defense work and often ignored state directives to represent indigent clients. There was a functioning bail system, and pretrial detainees were allowed prompt access to family members.

Criminal suspects, particularly immigrants, were sometimes arrested without warrants.

On March 23, military members arbitrarily arrested Pedro Infanda, who was subsequently tortured (see section 1.c.).

On April 1, soldiers arbitrarily arrested and beat Francisco José Fadul, the former president and former chief justice of the Audit Court (see section 1.c.).

The vast majority of the prison population consisted of detainees awaiting the conclusion of their trial; however, few detainees remained in custody for longer than one year. Most left before the conclusion of their trials as a result of inadequate detention facilities, lack of security, and rampant corruption. The few prisoners who were convicted seldom remained in custody for more than two years. Prisoners remanded to their homes due to space constraints in detention facilities often failed to return to prison.

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary; however, the largely nonfunctional judicial branch had little independence. Judges were poorly trained, inadequately and irregularly paid, and subject to corruption. Courts and judicial authorities were also frequently accused of bias and passivity, according to an October 2008 report published by the International Federation for Human Rights. The attorney general had little protection from political pressure since the president needs no other approval to replace the incumbent. Trials were often delayed by lack of materials or infrastructure, and convictions were extremely rare.

The judicial branch is made up of the Supreme Court, regional courts, a financial court, and a military court. The Supreme Court is the final court of appeal for civilian cases, and the Supreme Military Court is the final court of appeal for military cases. Regional courts have both criminal and civil branches. The financial court tries financial crimes, such as embezzlement, and has jurisdiction over regional courts. Military courts do not try civilians, although civilian courts try all cases involving state security, even if the accused are members of the military. The president has the authority to grant pardons and reduce sentences.

Traditional practices prevailed in most rural areas, and persons who lived in urban areas often brought judicial disputes to traditional counselors to avoid the costs and bureaucratic impediments of the official system. Police also often resolved disputes.

Trial Procedures.—There is no trial by jury. For all citizens, the law provides for a presumption of innocence, the right to have timely access to an attorney, to question witnesses, to have access to evidence held by the government, and to appeal. Trials in civilian courts are open to the public. Defendants have the right to be present and to present witnesses and evidence on their behalf. For those few defendants whose cases went to trial, these rights were respected in a majority of cases

and despite the otherwise dysfunctional judiciary. Citizens who cannot afford an attorney have the right to a court-appointed lawyer; however, court-appointed attorneys received no compensation from the state for representing indigent clients, were not punished for failing to do so, and generally ignored such responsibilities.

Political Prisoners and Detainees.—On June 5, military officials arrested State Information Services director General Antero Correia and held him without charge until his release on July 7. Correia reportedly had refused to sign a Ministry of Interior communiqué about the June 5 killing of Helder Proenca and Baciro Dabo in connection with a coup plot.

Civil Judicial Procedures and Remedies.—The judicial system handles civil as well as criminal matters, but it was neither independent nor impartial. There was no administrative mechanism to address human rights violations. Domestic court orders often were not enforced.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and law prohibit such actions, and the government generally respected these prohibitions in practice. However, police routinely ignored privacy rights and protections against unreasonable search and seizure.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution and law provide for freedom of speech and of the press; however, the government did not always respect these rights in practice. Security forces detained persons for exercising their right to free speech, particularly when they spoke out against military officials or arbitrary killings during the year. Journalists practiced self-censorship.

On April 1, soldiers entered the home of Francisco José Fadul, the former president and former chief justice of the Audit Court, and severely beat him and his wife with firearms before stealing many of their possessions. Fadul had held a press conference on March 30 in which he called on the government to hold the armed forces responsible for corruption and other criminal activities.

In addition to the government-owned newspaper No Pintcha, several private newspapers published without restriction. All newspapers were published through the state-owned printing house. The national printing press often lacked raw materials, and salaries were not always paid, resulting in publication delays.

There were several independent radio stations, a national radio station, and a national television station. International radio broadcasts could be received.

On March 3, following the assassination of then president Vieira, the army shut down two private radio stations but reopened them later the same day.

Journalists reported receiving telephone threats and summons to government premises to explain their activities or statements, while others reported prolonged court proceedings that impeded their work.

On October 14, the minister of the interior, Major Samba Djalo, ordered the arrest of Mario de Oliveira, the director of the newspaper Donos da Bola, following the publication of a fabricated interview with Djalo (see section 1.c). After intervention by the Guinea-Bissau Human Rights League, Oliveira was released after six hours.

There were no developments in the 2007 case in which unknown persons broke into the home of Radio France Internationale reporter Allen Yere Embalo, stole his camera, video footage of a report on drug trafficking, and more than 600,000 CFA (\$1,200). Embalo returned to the country during the year.

There were no developments in the 2007 case against Reuters journalist Alberto Dabo, who was charged with defamation, abuse of freedom of the press, violating state secrets, and slander due to his statement that former navy chief Jose Americo “Bubo” Na Tchuto was involved in drug trafficking.

Internet Freedom.—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups engaged in the peaceful expression of views via the Internet, including by e-mail. Lack of infrastructure, equipment, and education severely limited access to the Internet.

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

b. Freedom of Peaceful Assembly and Association.—*Freedom of Assembly.*—The constitution and law provide for freedom of assembly; and the government generally respected this right in practice. Permits were required for all assemblies and demonstrations.

Freedom of Association.—The constitution and law provide for the right of association, and the government generally respected this right in practice.

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

Although religious groups require a government license, there were no reports that any applications were refused.

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

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons (IDPs), refugees, asylum seekers, stateless persons, and other persons of concern.

The law did not specifically prohibit forced exile; however, the government did not use it.

Internally Displaced Persons.—IDPs moved back and forth over the border with Senegal, depending on the status of the ongoing armed conflict in Senegal's Casamance region. With ethnic and family ties on both sides of the poorly marked border, the nationality of IDPs was not always clear.

Protection of Refugees.—The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 protocol and is also a party to the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. The government has established a system for providing protection to refugees. In practice, the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened. The government did not grant refugee status or asylum during the year.

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

The constitution and law provide citizens with the right to peacefully change their government; however, this did not occur during the year due to the military assassination of the president, the killing of one presidential candidate, and the arbitrary arrest and torture of another (see sections 1.a and 1.c).

Elections and Political Participation.—The constitution provides that an election be scheduled within 60 days of the death of a president; however, interim president Raimundo Pereira postponed the first round of the presidential election until June 28, citing lack of resources. On June 28, PAIGC candidate Malam Bacai Sanha received 39 percent of the vote, and Party of Social Renewal candidate Koumba Yala received 29 percent, which led in a second round election on July 26. On that day Sanha won with 63 percent of votes cast. Despite the violent context in which both rounds were conducted, international observers characterized the polls as free and fair.

During the year the ruling PAIGC party attempted to restrict opposition political activity. Formal membership in the dominant party conferred some informal advantages. The political opposition was subjected to political violence due to military intimidation, torture, and killing of politicians, and candidates were not totally free to campaign as they preferred. Pedro Infanda withdrew from the presidential race because he feared for his own life following the killing of candidate Baciro Dabo. The Balanta ethnic group, mainly through its dominance of the armed forces, dominated the political system.

In August 2008 former navy chief Na Tchuto fled the country following an alleged failed coup attempt. He returned to the country on December 28, sought refuge in the local UN office, and began negotiations with the government regarding the possibility of going on trial for his alleged involvement in the coup attempt. Na Tchuto remained in the UN office at year's end.

The 98-member National Assembly has 10 female members. The Supreme Court president, three of the 19 government ministers, and one of nine state secretaries are also women.

All ethnic groups were represented in the government, and the minority Balanta group dominated the army.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption from one month to 10 years in prison; however, the government did not implement the law, and officials frequently engaged in corrupt practices with impunity.

Official corruption and lack of transparency were endemic at all levels of government. Members of the military and civilian administration reportedly assisted international drug cartels by providing access to the country and its transportation facilities. Customs officers frequently accepted bribes for not collecting import taxes, which greatly reduced government revenues. The largely nonfunctional and corrupt judiciary was unable and unwilling to enforce the law and investigate corruption cases. Attempts by the attorney general to investigate corruption were impeded by the armed forces. The World Bank's Worldwide Governance Indicators reflect that corruption was a severe problem.

During the year several members of the administrative and financially autonomous FISCAP agency in the Ministry of Fisheries were arrested for embezzlement. However, at year's end no one had been formally charged nor was anyone in custody in connection with this case.

According to a September 2008 UN report on the country and the activities of the UN Peace-Building Support Office, the country was rapidly moving from being a transit hub to a major market place in the drug trade. A 2008 UN Office on Drugs and Crime (UNODC) report stated that the country was becoming a strategic link in the transport of illegal narcotics from South America to Europe, although the UNODC reported that the volume of drugs transiting through the country decreased during the year. The failure to interdict suspected narcotics flights contributed to the perception of government and military involvement in narcotics trafficking.

Systemic failure to act throughout the police, military, and judiciary resulted in the absence of prosecutions of drug traffickers. Drug traffickers usually had official protection at some level. If judicial police were able to overcome this obstruction, they had no resources to conduct investigations, no detention facilities to detain suspects, and no means of transporting detainees to court. Judges and guards, who went months without receiving salaries, were highly susceptible to corruption and often released suspected traffickers, who subsequently disappeared. Judicial officials who displayed independence, resisted corruption, or attempted to investigate or prosecute narcotics traffickers were threatened.

During the year attorney general Luis Manuel Cabral launched an investigation into the military's protection of the crew and seizure of the cargo of an unauthorized airplane impounded at Bissau airport in July 2008. At year's end no military or government official had been charged with any crime relating to this matter. However, on June 4, Cabral sought refuge in the Angolan embassy after receiving threatening telephone calls related to the independent investigation into the March assassinations of the president and armed forces chief of staff.

Public officials are legally required to disclose their personal finances before the Court of Audits, but the court's authority was weak.

The National Assembly has an anticorruption committee, which was inactive during the year.

The law provides that "everyone has the right to information and judicial protection"; however, such access was seldom provided.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. The two major human rights organizations were the LGDH and the Observation League.

There were reports that NGO workers were harassed during the year.

For example, on April 1, LGDH president Luis Vas Martins reported that an armed man came to his office and threatened to kill him due to an LGDH statement condemning the beating of Francisco Jose Fadul (see section 1.c.). In 2007 Martins reported receiving threatening telephone calls that he believed were linked to his human rights activities. There were no developments in this case by year's end.

Prior to his assassination on March 1, then army chief of staff Tagme Na Waie withdrew the arrest warrant against Mario Sa Gomes, president of the NGO Guinean Association of Solidarity with the Victims of Judicial Error. Sa Gomes had gone into self-imposed exile in 2007 after calling for Na Waie's dismissal for alleged involvement in drug trafficking. The case against Sa Gomes officially ended with the March death of Na Waie, and Sa Gomes remained abroad by choice.

The government permitted visits by UN representatives, including UNOGBIS personnel. The International Committee of the Red Cross visited several times. In October the UN issued the Report of the Secretary-General on Developments in Guinea-Bissau and on the Activities of the United Nations, which was critical of the coun-

try's human rights record. There was no government response to the report by year's end.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination but does not designate the bases of discrimination; the government did not enforce prohibitions against discrimination.

Women.—The law prohibits rape, including spousal rape, but government enforcement was limited. No information on the extent of the problem was available.

Domestic violence, including wife beating, was an accepted means of settling domestic disputes. There is no law that prohibits domestic violence, and politicians reportedly were reluctant to address the subject for fear of alienating more traditional voters or particular ethnic groups. Although police intervened in domestic disputes if requested, the government did not undertake specific measures to counter social pressure against reporting domestic violence, rape, incest, and other mistreatment of women.

There are no laws against prostitution and it was a problem.

There is no law prohibiting sexual harassment and it was a problem.

Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children, and to have the information and means to do so free from discrimination, coercion, and violence. There is access to birth control and limited access to HIV testing.

The law treats men and women equally and prohibits discrimination; however, discrimination against women was a problem, particularly in rural areas where traditional and Islamic laws were dominant. Women were responsible for most work on subsistence farms and had limited access to education, especially in rural areas. Women did not have equal access to employment. Among certain ethnic groups, women cannot manage land or inherit property. Although no data was available, women reportedly experienced discrimination in employment, pay for similar work, and owning a business.

Children.—Citizenship is derived by birth within the country and by parental relation. Child registration does not occur automatically at hospitals. Parents must register their child's birth with a notary. The government conducts yearly campaigns to register children in the countryside. Lack of registration results in the denial of education since school registration requires a birth certificate. Lack of registration does not result in the denial of health services.

Public schooling was free and universal through high school, but compulsory only through the sixth grade. Teachers were poorly trained and paid, sometimes not receiving salaries for months, which resulted in closure of the schools for nearly half of the school year. Children often were required to help their families in the fields, which conflicted with schooling. In general there was no difference in the treatment and attendance of boys and girls, but Islamic schools banned girls from school.

Violence against children existed but was seldom reported to the authorities.

There is no law prohibiting FGM, and certain ethnic groups, especially the Fulas and the Mandinkas, practiced it, not only on adolescent girls but also on babies as young as four months. There was no government effort to combat FGM during the year. In September FGM was performed on a three-week-old baby in Bissau, who subsequently died from a hemorrhage.

Child marriage occurred among all ethnic groups, but no reliable data existed to quantify the problem. Girls who fled arranged marriages often were forced into prostitution to support themselves. The practice of buying and selling child brides also reportedly occurred on occasion. Local NGOs worked to protect the rights of women and children and operated programs to fight child marriage and protect the victims of child marriage. Observers noted during the year that NGO efforts to enroll more girls in school had a negative side effect on child marriages: more girls were forced to marry at a younger age because parents feared the social opportunities of school would increase the risk of their daughters losing their virginity before marriage.

There are no explicit penalties for child prostitution, but there is a statutory rape law against having sex with someone less than 16 years old. The rape law carries a penalty of two to six years in prison. There is no law against child pornography.

The Child Protection Office of the Bissau Police Department estimated that approximately 1,000 children were living on the streets of Bissau, with a growing number of boys engaged in gangs and petty crime. The government provided no services to street children.

Trafficking in Persons.—There are no laws that prohibit trafficking in persons, and children were trafficked from, through, and within the country. Boys, known as "talibes," were sent from rural areas to attend Koranic schools in neighboring countries, primarily Senegal, where they were exploited, abused, and forced to beg

to meet daily monetary quotas for their Koranic teachers. Other boys were sent to work in cotton fields in the south of Senegal. Children were trafficked to work as domestic servants, shine shoes, or sell food on the street in urban areas. Girls were sometimes exploited as prostitutes.

According to the local NGO Association of the Friends of Children (AMIC), there was a general reduction in the number of talibes sent abroad during the year.

On April 8, AMIC organized the repatriation of 13 children from Senegal. On June 26, AMIC organized another repatriation of 20 children from Senegal. During the year 20 children returned from Senegal on their own accord. During the year six traffickers were captured in Pirada near the Senegalese border; they had not been tried at year's end.

Traffickers often were teachers in Koranic schools and were related to the families of victims. Traffickers typically approached the parents of young children and offered to send the children for a religious education where they would be taught to read the Koran. Parents received no compensation for sending their children and in many cases paid for the initial travel. In some cases children sent away were unwanted, especially in second marriages, if the new wife did not want to raise children from the first marriage.

Laws against the removal of minors, sexual exploitation, abuse, and kidnapping of minors can be used to prosecute traffickers. Kidnapping provides for a penalty of between two and 10 years in prison, and rape carries a penalty of between one and five years' imprisonment. Despite these laws, the government seldom investigated trafficking cases, and there were no successful prosecutions of traffickers. Instead authorities prosecuted parents who colluded with traffickers. Parents of returned victims had to sign a contract promising not to send their children away under penalty of jail, and during the year AMIC monitored the agreement through visits to the households of repatriated trafficked children and held antitrafficking education programs.

The Ministry of Interior has responsibility for antitrafficking efforts; however, the government had no national plan to combat trafficking or the capability to monitor, interdict, or prosecute traffickers.

There were reports that customs, border guards, immigration officials, labor inspectors, or local police may have been bribed to facilitate trafficking; however, no specific information was available.

Government officials, including police and border guards, worked closely with AMIC and the UN Children's Fund to prevent trafficking, raise awareness, and repatriate victims. During the year the government actively assisted in the repatriation of dozens of children from Senegal. The regional court played an instrumental role during the year in alerting parents that they would be held legally accountable if they sent their children to beg in a foreign country. AMIC coordinated efforts with the government, police, and civil society to prevent trafficking, help returned victims find their families, and hold parents accountable in court if their children were re-trafficked after participating in the reintegration program. AMIC also ran a facility for victims and conducted regular awareness programs on radio stations in the Gabu area and during visits to villages in source areas. AMIC and local police worked with religious and community leaders in Gabu and Bafata. Another program, founded by the local imam of Gabu, held evening Koranic studies after school as an alternative to the schools in Senegal.

The State Department's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The law does not specifically prohibit discrimination against persons with disabilities, mandate building access for them, or provide for equal access to employment and education. There were no government efforts to mitigate discrimination against persons with disabilities or ensure their access to buildings or streets. However, there were no reports of overt societal discrimination. The government made some efforts to assist military veterans with disabilities through pension programs, but these programs did not adequately address health, housing, or food needs.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—There was no freedom of sexual orientation. Gay men and lesbians were afraid to be open in their behavior. There are no laws that criminalize sexual orientation, and there were no violent incidents or human rights abuses targeting individuals based on their sexual orientation or identity. There was no official or societal discrimination based on sexual orientation or gender identity in employment, housing, or access to education and health care.

Other Societal Abuses and Discrimination.—There was open discussion of HIV/AIDS and no societal violence or discrimination against persons with HIV/AIDS.

Section 7. Worker Rights

a. The Right of Association.—The law provides all workers with the freedom to form and join independent trade unions without previous authorization or excessive requirements, and workers exercised this right in practice. A significant majority of the population worked in subsistence agriculture, and only a small percentage of workers were in the wage sector and organized. Approximately 85 percent of union members were government or parastatal employees who primarily belonged to independent unions.

The law allows unions to conduct their activities without government interference and provides for the right to strike, but the government did not always protect these rights. The only legal restriction on strike activity was a prior notice requirement. The law also prohibits retaliation against strikers.

Unlike 2008, there were no reports that security forces forcibly dispersed legal strike participants.

b. The Right to Organize and Bargain Collectively.—The law does not provide for or protect the right to bargain collectively; however, the tripartite National Council for Social Consultation conducted collective consultations on salary issues. Most wages were established in bilateral negotiations between workers and employers.

The law does not prohibit antiunion discrimination; however, no workers alleged antiunion discrimination, and the practice was not believed to be widespread.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, but there were reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—There are no specific laws that protect children from exploitation in the workplace, and child labor occurred. The legal minimum age is 14 years for general factory labor and 18 years for heavy or dangerous labor, including labor in mines; minors are also prohibited from working overtime. The small formal sector generally adhered to these minimum age requirements; however, the Ministry of Justice and the Ministry of Civil Service and Labor did not enforce these requirements in informal work settings.

Most child labor occurred in the informal sector. The incidence of children working in street trading in cities increased during the year. Types of forced child labor included domestic servitude, shoe shining, and selling food in urban streets. Children in rural communities performed domestic and fieldwork without pay to support families or because of a lack of educational opportunities. Some children were partially or completely withdrawn from school to work in the fields during the annual cashew harvest. The government had not taken action to combat such practices by year's end.

The Institute of Women and Children and the ministries of labor and justice are responsible for protecting children from labor exploitation; however, there was no effective enforcement. The government took little action to prevent child labor during the year. AMIC, in collaboration with the NGO International Cooperation and Development, succeeded in rescuing approximately 1,000 child workers. The NGO Network of Youth was also involved in removing child workers.

e. Acceptable Conditions of Work.—The Council of Ministers annually establishes minimum wage rates for all categories of work, but it did not enforce them. The lowest monthly wage was approximately 19,030 CFA (\$38) per month plus a bag of rice. This wage did not provide a decent standard of living for a worker and family, and workers had to supplement their incomes through other work, reliance on the extended family, and subsistence agriculture.

The government was four months in arrears in salary payments by year's end, paying August salaries on December 5. Civil servants went on strike on October 7 to protest three months of salary arrears.

The law provides for a maximum 45-hour workweek; however, many employees were forced to work longer hours. The law also provides for overtime pay, as long as it does not exceed 200 hours per year, and a mandatory 12-hour rest period between workdays; however, these provisions were not enforced.

With the cooperation of the unions, the ministries of justice and labor establish legal health and safety standards for workers, which the national assembly then adopts into law; however, these standards were not enforced, and many persons worked under conditions that endangered their health and safety. Workers, including foreign workers, do not have the right to remove themselves from unsafe working conditions without losing their jobs.

*In June 1998 the U.S. Embassy suspended operations in the midst of heavy fighting in Guinea-Bissau, and all official personnel in the country were evacuated.

This report is based on information obtained from U.S. embassies in neighboring countries, especially Senegal, from other independent sources, and from regular visits to Guinea-Bissau by U.S. officials assigned to the U.S. Embassy in Dakar. The U.S. Ambassador to Senegal, resident in Dakar, is also accredited to Guinea-Bissau.

KENYA

Kenya has a population of approximately 39 million. It is a republic with a mixed presidential and parliamentary system. It has a strong president and a prime minister with unclearly defined executive powers. There is a unicameral National Assembly. In 2007 the government held local, parliamentary, and presidential elections. Observers judged the parliamentary and local elections to be generally free and fair. In the presidential election, the incumbent, President Mwai Kibaki, was proclaimed the winner by a narrow margin under controversial circumstances. Serious irregularities undermined the integrity of the presidential election results. Raila Odinga, the main opposition candidate, disputed the results, and violence erupted in sections of Nairobi and opposition strongholds in Nyanza, Rift Valley, and Coast provinces; approximately 1,333 persons were killed and more than 350,000 displaced between December 2007 and February 2008. The violence ended in February 2008 when, as the result of an international mediation process, the two sides agreed to form a coalition government. Under the terms of the agreement, incumbent President Kibaki retained his office, and Odinga was appointed to a newly created prime ministerial position. The parties also agreed to undertake a series of constitutional, electoral, and land reforms to address underlying causes of the crisis; these reforms were not completed by year's end. While civilian authorities generally maintained effective control of the security forces, there were frequent instances in which the security forces, particularly the police, acted independently.

The following human rights problems were reported: abridgement of citizens' right to change their government; unlawful killings, torture, rape, and use of excessive force by police and the military; mob violence; police corruption and impunity; harsh and life-threatening prison conditions; arbitrary arrest and detention; arbitrary interference with the home; prolonged pretrial detention; executive influence on the judiciary; restrictions on freedom of speech, assembly, and of the press; forced return of refugees and societal abuse of refugees including killing and rape; official corruption; violence and discrimination against women including female genital mutilation; child prostitution and labor; trafficking in persons, including allegations of recruitment of child soldiers to fight in Somalia, and minors who were internally displaced; interethnic violence; and lack of enforcement of workers' rights.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were several reports that the government or its agents committed arbitrary and unlawful killings, included politically motivated killings, during the year. The government took only limited action in enforcing the law against security forces suspected of unlawfully killing citizens.

In February Philip Alston, the UN special rapporteur on extrajudicial, summary or arbitrary executions, released a report which found “that police in Kenya frequently execute individuals and that a climate of impunity prevails.” The rapporteur also reported “the existence of police death squads operating on the orders of senior police officials and charged with eliminating suspected leaders and members of criminal organizations.” The government rejected the findings of the Alston report and filed a protest with the UN. According to media reports, however, the Ministry of Internal Security acknowledged in a February letter to the Kenya National Commission on Human Rights (KNCHR) that police had killed 308 youths in 2008.

In 2008 the government formed the Commission of Inquiry into Postelection Violence (CIPEV) as part of the internationally mediated political settlement. The CIPEV documented 405 gunshot deaths during the postelection period; it attributed the vast majority of these to police. Law enforcement authorities offered no evidence to contradict reports that police officers perpetrated the shooting deaths. The final CIPEV report recommended that the government establish a special tribunal to investigate individuals suspected of such violence; however, no tribunal had been established by year's end, and the government had not systematically investigated or prosecuted individuals suspected of postelection violence through other means.

In March unidentified gunmen, reportedly acting on orders from the commissioner of police, shot and killed Oscar Kamau King'ara, the executive director of the local

NGO Oscar Foundation Free Legal Aid Clinic Kenya (OFFLACK), and Paul Oulu, OFFLACK's program coordinator; the gunmen first blocked King'ara's car at a roundabout. On the day of the killing, government spokesman Alfred Mutua accused OFFLACK of being a front for the Mungiki, the country's largest criminal organization, and criticized OFFLACK's role in providing information on extrajudicial killings of Mungiki members to the UN special rapporteur. In 2008 OFFLACK reported that police were linked with the continued disappearance and deaths of suspected Mungiki members. Police threatened and intimidated witnesses to the killings, and four witnesses went into exile. The prime minister requested international assistance to investigate the murders, but the minister for foreign affairs subsequently rejected such assistance, and no credible investigation had been conducted by year's end.

Security forces continued to claim that police must shoot to kill to defend themselves when confronted by armed suspects. For example, in September the media reported that the district commissioner for Murang'a East District issued a "shoot to kill" order against suspected members of the banned Mungiki criminal organization, and in October a District Commissioner in Marakwet announced a "shoot to kill" policy against suspected armed bandits. The policy first was enunciated in 2005 and later reiterated in 2007 after armed criminals killed 43 police officers in the line of duty.

During the year there were reports that persons died while in police custody or shortly thereafter, some as a result of torture. In 2008 the Independent Medico-Legal Unit (IMLU), a leading and credible human rights nongovernmental organization (NGO), reported one death while in police custody but noted that the actual number was likely higher; police often did not enter suspects into police custody records, impeding ability to track such cases.

Police killed numerous criminal suspects during the year, often claiming that the suspects had violently resisted arrest or were armed. From January to October, IMLU documented 33 alleged extrajudicial killings by police officers, the majority of whom were criminal suspects killed by police during apprehension. Human rights organizations claimed that police often planted weapons to justify the killing of criminal suspects during apprehension.

For example, in October police killed five persons traveling in a "matatu" minibus in the Githurai area of Nairobi, claiming that they were armed members of Mungiki. Residents of the area stated that the five were matatu operators fleeing police harassment and that police planted the gun after the killing.

No action was taken against security force members in the following 2008 killings of criminal suspects: the February killing of six suspected car thieves in Nairobi; the police shooting deaths of 21 robbery suspects in and around Nairobi, and the shooting deaths of three suspects and two workers in a Nairobi casino.

During the year more than 25 suspected Mungiki members were killed by security forces.

No action was taken against security force members responsible for 2008 extrajudicial killings of Mungiki members or the October 2008 killing of a police officer who had cooperated with the KNCHR investigation of Mungiki killings.

A journalist was abducted and killed during the year (see section 2.a.).

Unlike in 2008, police use of excessive force to disperse demonstrators did not result in deaths.

There were no developments in the following 2008 cases of demonstrator deaths: the January arrest of a police officer in Kisumu for the shooting death of two unarmed protesters, and the killing of at least 83 persons during postelection violence in Kisumu. There also were no reported developments in the October killing of the police officer who provided evidence to the KNCHR on extrajudicial killings of Mungiki members.

Mob violence and vigilante action resulted in numerous deaths. The great majority of victims killed by mobs were suspected of criminal activities, including theft, robbery, killings, cattle rustling, and membership in criminal or terrorist gangs. For example, in April villagers near the town of Karatina clashed with suspected members of the Mungiki criminal organization, killing 29 persons. Police arrested 48 suspects in connection with the clashes. The case continued at year's end.

In August an armed gang killed internationally renowned gemologist Campbell Bridges when he confronted the group for trespassing on a mine near Voi. Police arrested six suspects in the case, but Bridges' family alleged that senior government officials involved in the killing were not investigated.

There were no reports of developments in the following 2008 cases of death by mob violence: the February death by burning of two men in Meru who allegedly robbed a matatu driver, the March stoning of one man in Imenti South, or the September lynching of a village chief in Mikumbune in Imenti South.

Human rights observers attributed vigilante violence to a lack of public confidence in police and the criminal justice system; allegedly, assailants often bribed their way out of jail or were not arrested. The social acceptability of mob violence also provided cover for acts of personal vengeance, including settling land disputes.

Mobs committed violence against persons suspected of witchcraft, particularly in Kisii District and Nyanza and Western provinces. Although local officials spoke out against witch burning and increased police patrols to discourage the practice, human rights NGOs noted public reluctance to report such cases due to fear of retribution.

In February five persons were burned to death in Kitutu Chache, Kisii, after being accused of abducting and placing a spell on a young boy. In March six suspected witches were burned to death in Pokot District, and six others were killed in Kisii.

b. Disappearance.—Disappearances and politically motivated abductions occurred during the year.

For example, in January a journalist was abducted and killed (see section 2.a.).

In September the Muslim Human Rights Forum (MHRF) alleged that five Muslims suspected by the government of involvement in terrorist activity were abducted by the Anti-Terrorism Police Unit (ATPU) and subsequently disappeared. The ATPU denied the allegations.

The KNCHR, IMLU, and Western Kenya Human Rights Watch (WKHRW) reported that the government failed to investigate disappearances in connection with the 2008 security force operation in Mount Elgon and the crackdown on the Mungiki criminal organization in 2008 and 2007.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution and law prohibit such practices; however, the legal code does not define torture and provides no sentencing guidelines, which functionally bars prosecution for torture. Police frequently used violence and torture during interrogations and as punishment of pretrial detainees and convicted prisoners. According to IMLU, physical battery was the most common method of torture used by the police.

Human rights organizations, churches, and the press condemned numerous cases of torture and indiscriminate police beatings. In 2008 IMLU received 772 cases alleging torture by security officers, compared with 397 in 2005, although it noted that the number of torture cases was likely higher.

Unlike in previous years, there were no reports that police abused street children.

There were allegations of rape by security forces, including the rape of women in prisons, as well as in camps for internally displaced persons (IDPs) and refugee and among asylum seekers crossing into the country from Somalia. The Center for Rights Education Awareness alleged in 2008 that policemen raped women in the Kibera slum in Nairobi and those seeking refuge in police stations.

Police use of excessive force to disperse demonstrators resulted in injuries (see section 2.b.).

Due to shortage of civilian state prosecutors in the legal system (73 civilian prosecutors nationwide compared to 350 police prosecutors), police were responsible for investigating and prosecuting all crimes at the magistrate court level; civilian prosecutors handled cases at the high court level. Police routinely ignored evidence of security force torture provided by IMLU and other human rights organizations. In most cases allegations of torture were not fully investigated and the perpetrators not charged.

As part of reforms agreed to in the National Accord, in July the government established the Truth, Justice, and Reconciliation Commission (TJRC) whose mandate included the investigation of alleged cases of torture since independence. However, the TJRC had conducted no hearings by the year's end.

The government did not investigate alleged cases of torture by security forces that were documented by IMLU and Human Rights Watch (HRW) from the Mount Elgon and El Wake security operations in 2008. The government denied that security forces engaged in torture, and refused to prosecute individuals alleged to have participated in torture during the two operations.

There were numerous instances of mob violence and vigilante action resulting in serious injury. For example, in June a mob beat three suspected thieves to death in Nairobi.

Prison and Detention Center Conditions.—Prison and detention center conditions continued to be harsh and life threatening. A KNCHR prison assessment during the year concluded that torture, degrading and inhuman treatment, unsanitary conditions, and extreme overcrowding were endemic in prisons. Most prisons, particularly men's prisons, continued to be severely overcrowded in part due to a backlog of cases in the judicial system. In May 2008 the director of health services for prison

services stated that the country's 90 prisons held 48,000 prisoners but were designed to hold only 12,000 persons. The WKHRW reported that in September, Bungoma Prison near Mount Elgon held more than 1,100 prisoners in a facility with a 480-person capacity.

Civil society organizations began visiting prisons in 2003, and these visits continued to reveal harsh conditions as well as allegations by prisoners of inhumane treatment, including torture. For example, in February the KNCHR documented beatings and assault by prison staff of prisoners at Nairobi Remand and Meru Women's prisons, and in April at Kisumu Women's Prison.

In 2008 wardens in Kamiti Prison scalded prisoners with hot water and beat them during an operation to interdict contraband items. One person died, and 20 were hospitalized. Three wardens were suspended. At year's end a police investigation of the incident continued.

In 2007 the Legal Resource Foundation released a report which stated that torture in prisons was commonplace and inflicted openly. Of 948 prisoners from 29 prisons interviewed, 83 percent claimed they were beaten, and 59 percent witnessed wardens mistreating other prisoners. Police did not appear to target any particular ethnic, religious, or social group for torture. Authorities did not take action against those accused of torture.

Prisoners generally received three meals per day, but portions were inadequate, and they were sometimes given half rations as punishment. Water shortages, an issue outside prisons as well, continued to be a problem.

Prison personnel stated that the rape of male and female inmates, primarily by fellow inmates, continued. Media reports indicated that it was also common for prison officials to rape female inmates. In September a transgender person alleged abuse by male prisoners and wardens in Nairobi's Kamiti Prison.

Hundreds of prisoners died annually from infectious diseases spread by overcrowding, unhygienic conditions, and inadequate medical treatment. In August, 18 prisoners died of suspected tuberculosis and pneumonia in Kodiaga Prison in Kisumu. In July 2008 a Ministry of Home Affairs report on prison conditions estimated that 46 inmates died monthly because of overcrowding, unhygienic conditions, and poor health care.

Prisoners were sometimes kept in solitary confinement far longer than the legal maximum of 90 days. Prisoners and detainees sometimes were denied the right to contact relatives or lawyers. Family members who wanted to visit prisoners faced numerous bureaucratic and physical obstacles, each often requiring a bribe to overcome.

There were no separate facilities for minors in pretrial detention. Civil society activists witnessed young children, women, and men sharing the same cells. In 2008 IMLU reported that underage boys were detained in Bungoma Prison. Additionally, a July 2008 government report on prison conditions noted that underage female offenders, who were ineligible for diversion to a lesser security training school, were housed with adult female prisoners.

Some children under the age of four lived with their mothers in the 14 prisons for women. Official data were unavailable, but the Law Society of Kenya issued a report in December 2008 stating that 281 children lived with their mothers in prisons.

The government permitted visits to prisons by local human rights groups during the year.

Following the release during the year of the Madoka Committee report on prison conditions, the government increased investment in the prison system. New prison facilities and housing for prison staff were built, and bedding and meals for inmates improved although they were still considered inadequate by rights groups.

d. Arbitrary Arrest or Detention.—The law prohibits arrest or detention without a court order unless there are reasonable grounds for believing a suspect has committed or is about to commit a criminal offense; however, police frequently arrested and detained citizens arbitrarily.

Role of the Police and Security Apparatus.—There was a large internal security apparatus that included the Kenyan National Police Service (KNPS) and its Criminal Investigation Department, responsible for criminal investigations, and Antiterrorism Prevention Unit; the Kenya Administration Police (KAP), which has a strong rural presence throughout the country, constitutes the security arm of the civilian provincial administration structure, and has the mandate for border security; the Kenya Wildlife Service (KWS), responsible for security and counterpoaching operations within the national parks; the paramilitary General Services Unit (GSU), responsible for countering uprisings and guarding high-security facilities; and the National Security Intelligence Service (NSIS), which collects intelligence. The

KNPS, KAP, and GSU are under the authority of the Ministry of State for Provincial Administration and Internal Security. The NSIS is under the direct authority of the president. There was a public perception that police often were complicit in criminal activity.

Police were ineffective and corrupt, and impunity was a problem. In 2008 OFFLACK noted that bribery in police recruitment was a problem. The police often recruited unqualified candidates who had political connections or who paid bribes, which contributed to poorly conducted investigations.

Press and civil society reported that police continued to resort to illegal confinement, extortion, physical abuse, and fabrication of charges to accomplish law enforcement objectives, as well as to facilitate illegal activities.

Impunity was a major problem. Police officers were rarely arrested and prosecuted for criminal activities, corruption, or for using excessive force. Authorities sometimes attributed the absence of an investigation into corruption or an unlawful killing to the failure of citizens to file official complaints. However, the required complaint form was available only at police stations, and there was considerable public skepticism regarding a process that assigned the investigation of police abuse to the police themselves.

Police also often did not enter suspects into police custody records, making it difficult to locate detainees. For example, the civil society organization Bunge la Mwananchi (BLM) reported that when members were arrested following political forums, they and were often not booked at police stations.

According to NGOs, the police practice of requiring an exam and testimony by a single police physician of victims of sexual assault resulted in substantial barriers to the investigation and prosecution of sexual violence cases (see section 6). During the year the government established a witness protection unit pursuant to the 2007 witness protection law; however, the unit was not operational by year's end. Witness insecurity continued to severely inhibit the investigation and prosecution of major crimes.

The government took some steps to curb police abuse during the year; the media reported that several dozen police officers were arrested for petty corruption in the last quarter of the year.

In September, in response to an interim report by the National Task Force on Police Reforms, the president replaced police commissioner Hussein Ali and the senior police leadership. The final task force report was released in November; by year's end the government had not appointed the Police Reform Implementation Commission charged with overseeing the implementation of the recommended reforms.

There were no developments in the following 2008 cases: the trial of a police officer allegedly responsible for the shooting deaths of two unarmed, peaceful demonstrators in Kisumu; and the trial of a police officer for the shooting death of a member of parliament (MP) in Kericho.

There were numerous instances in which police failed to prevent societal violence. In February and March, police failed to prevent the burning deaths of suspected witches in Pokot and Kisii. In April police failed to prevent a mob from beating to death suspected Mungiki members in Karatina. Police attempted to investigate these incidents of societal violence but were hampered by the communities' unwillingness to provide information about the cases.

Arrest Procedures and Treatment While in Detention.—Under the criminal procedure code, police have broad powers of arrest. Police may make arrests without a warrant if they suspect a crime has occurred, is happening, or is imminent. Detainees in noncapital cases must be brought before a judge within 24 hours. Detainees in capital cases must be brought before a judge within 14 days; however, the government did not respect this law in practice. The courts dealt with this shortcoming by considering whether the constitutional rights of the accused had been breached. In many cases accused persons, including some murder defendants, were released because they had been held longer than the prescribed period.

The right to prompt judicial determination of the legality of detention frequently was not respected in practice. The law provides pretrial detainees the right of access to family members and attorneys. When detainees could afford counsel, police generally permitted access; however, there were cases in which police refused access to lawyers. Family members of detainees frequently complained that access was only permitted on payment of bribes. There is a functioning bail system; however many suspects remained in jail for months pending trial because of their inability to post bail. Individuals charged with offenses that were deemed serious and capital offences are not eligible for bail pending trial.

Police often stopped and arrested citizens to extort bribes. Since few could afford even a modest bribe, many languished in jail unless family or friends raised the bribe money demanded by police (see section 2.c.).

Muslim leaders claimed that police indiscriminately arrested Muslims on suspicion of terrorism and that some suspects subsequently disappeared, but the police denied this.

There were reports during the year that police arbitrarily arrested persons demonstrating against the government. For example, in December police arrested 22 BLM members who were peacefully demonstrating against a corruption scandal in the Ministry of Education. Despite an order by the magistrate to release the demonstrators, police held them in detention for three days over Christmas, during which time they were alleged to have been deprived of food and water.

Lengthy pretrial detention continued to be a serious problem that contributed to overcrowding in prisons. The government claimed the average time spent in pretrial detention on capital charges was 16 months; however, there were reports that many detainees spent more than three years in prison before their trials were completed. Police from the arresting location are responsible for serving court summonses and picking up detainees from the prison each time a court schedules a hearing on a case. A shortage of manpower and resources meant that police often failed to appear or lacked the means to transport detainees, who then were forced to await the next hearing of their cases. According to the chief justice, as of August 2007 there was a judicial backlog of nearly one million criminal cases, resulting in persons being detained for months before seeing a judge.

Amnesty.—The president releases petty offenders periodically, with the largest amnesty occurring on December 12, Independence Day; however, the release is not automatic. According to the Kenya Prison Service, in 2008 the president amnestied 4,960 prisoners on Independence Day; the total number amnestied during 2008 was 11,523.

In August the president commuted all death row sentences to life imprisonment.

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary; however, the executive branch sometimes exercised political influence over the judiciary. The judiciary was corrupt at all levels. In 2006 the African Peer Review Mechanism, an African Union (AU) initiative which evaluates AU member states for conformance with commonly agreed political and economic standards, reported a “visible lack of independence of the judiciary.” In January 2008, after the controversial announcement of the presidential results, the opposition leader refused to file a court challenge to the announcement because he did not expect a fair hearing.

In 2008 the government established a National Task Force on Judicial Reforms; the task force presented a final report to the president in August but the report was not publicly released by year’s end.

The president has extensive powers over appointments, including of the attorney general, chief justice, and appellate and high court judges. The president can dismiss judges and the attorney general upon recommendation of a special tribunal appointed by him. Although judges have life tenure, except for a few foreign judges hired under contract, the president has authority over judicial appointments.

The court system consists of the Court of Appeals, High Court, and various levels of magistrate courts, where most criminal and civil cases originate. The Court of Appeals is the highest court; the chief justice is a member of both the Court of Appeals and the High Court. All judges on the Court of Appeals and the High Court are appointed by the president upon recommendation of the Judicial Service Commission; magistrates are hired by the commission. The High Court has a criminal division that handles capital offences and other serious crimes. The bulk of criminal trials are conducted by magistrate courts, while the High Court and Court of Appeals also hear appeals. Civil cases may be heard by any of the courts, depending on the nature of the case.

The constitution provides for Khadhi’s courts and states that the “jurisdiction of a Kadhi’s court shall extend to . . . questions of Muslim law relating to personal status, marriage, divorce, or inheritance in proceedings in which all the parties profess the Muslim religion.” There are no other traditional courts. The national courts used the traditional law of an ethnic group as a guide in personal matters as long as it did not conflict with statutory law. Use of traditional law occurred most often in cases of marriage, death, and inheritance in which there was an original contract based on traditional law. Citizens may choose between national and traditional law when they enter into marriage or other contracts; however, the courts determine which kind of law governs the enforcement of the contract. Some women’s organizations sought to eliminate traditional law, through a number of proposed marriage laws, because in practice the current laws were interpreted and applied in favor of men.

Military personnel are tried by court-martial, and verdicts may be appealed through military court channels. The chief justice appoints attorneys for military

personnel on a case-by-case basis. Military courts do not afford defendants all the rights that civilian courts provide. Military courts are not empowered to try civilians.

The government occasionally used the legal system to harass critics. Local authorities continued to prosecute a 2008 case against a physician who helped document allegations of human rights abuses in the Mount Elgon region but dropped a case against a second witness.

In May prosecutors dropped charges from a 2008 case against the director of the seafarer's welfare organization for issuing a statement that military cargo on a hijacked ship was bound for South Sudan and not Kenya, as the government claimed.

There were no developments in the 2008 case of the former MPs charged with incitement for statements about human rights abuses in El Wak.

Trial Procedures.—Civilians are tried publicly, although some testimony may be given in closed session. The law provides for a presumption of innocence, and defendants have the right to attend their trials, confront witnesses, and present witnesses and evidence in their defense. A defendant's right to consult with an attorney in a timely manner was generally respected. However, the vast majority of defendants could not afford representation and were tried without legal counsel. Indigent defendants do not have the right to government provided legal counsel except in capital cases. The lack of a formal legal aid system seriously hampered the ability of many poor defendants to mount an adequate defense. Legal aid was available only in major cities where some human rights organizations, notably the Federation of Women Lawyers, provided it. During the year the government launched a National Legal Aid Office, but the program was not functional by year's end.

Discovery laws are not defined clearly, further handicapping defense lawyers. Implementation of the High Court ruling that written statements be provided to the defense before trial was slow. Often defense lawyers did not have access to government-held evidence before a trial. The government sometimes invoked the Official Secrets Act as a basis for withholding evidence. Defendants can appeal a verdict to the High Court and ultimately to the Court of Appeals. The legal system does not provide for trial by jury; judges try all cases.

In treason and murder cases, the deputy registrar of the High Court can appoint three assessors, who are lay citizens, to sit with a high court judge. Although assessors render verdicts, their judgments are not binding, and the practice was being phased out during the year. Defendants' lawyers can object to the appointment of individual assessors. A shortage of appropriate assessors frequently led to long delays in hearing cases.

According to NGOs, the police practice of requiring an exam and testimony by a single police physician of victims of sexual assault resulted in substantial barriers to the investigation and prosecution of sexual violence cases (see section 6).

Political Prisoners and Detainees.—There were no reports of political prisoners or detainees during the year.

Civil Judicial Procedures and Remedies.—The KNCHR has some powers of a court, including the issuance of summonses and ordering the release of a prisoner or detainee, payment of compensation, or other lawful remedy; however, the government continued to ignore such summonses and orders. The police routinely refused to release suspects when ordered to do so by the KNCHR. During the year the attorney general filed a brief with the High Court arguing that the KNCHR should be stripped of judicial powers; the court has not issued a final ruling but did issue an injunction barring the KNCHR from convening investigatory panels. As a result, the KNCHR was barred from intervening in cases of police and judicial misconduct.

The civil court system can be used to seek damages for victims of human rights violations. However, corruption, political influence over the civil court system, and chronic backlogs of cases limited access by victims to this remedy.

Widespread corruption existed at all levels of the civil legal system. Bribes, extortion, and political considerations influenced the outcomes in large numbers of civil cases.

Court fees for filing and hearing cases—a daily rate of at least 2,040 shillings (\$28) for arguing a civil case before a judge—effectively barred many citizens from gaining access to the courts.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and law prohibit such actions, except "to promote public benefit"; however, authorities sometimes infringed on citizens' privacy rights. The law permits police to enter a home without a search warrant if the time required to obtain a warrant would prejudice an investigation. Although security officers generally obtained search warrants, they occasionally conducted searches without warrants to apprehend suspected criminals or to seize property believed stolen.

Unlike in 2008, there were no reports that security officers raided homes in the Mount Elgon District, destroying property and setting houses on fire, in their search for militia members; however, police raided homes in the Nairobi slums in search of suspected Mungiki members.

City Council and police officers also frequently raided, evicted, or destroyed the homes and businesses of citizens in slums or other areas who did not hold proper legal title. Residents complained that these actions were often intended to extort bribes from residents and small business owners.

In September parliament accepted an amended version of the Mau Forest Task Force report, authorizing the eviction of all 2,000 residents in the Mau Forest; evictions were carried out in November and December. Evictees alleged that security forces destroyed property and that the government failed to provide adequate emergency shelter or promised compensation. Residents holding title deeds are entitled to compensation.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of speech and of the press, but the government sometimes restricted these rights. During the year security forces killed, harassed, beat, and arrested members of the media. Journalists practiced self-censorship.

The government occasionally interpreted laws in such a way as to restrict freedom of expression. The prohibition on discussion of issues under court consideration limited deliberation on a number of political issues, although this restriction was relaxed in September. The government monitored many types of civil society meetings, and individuals were not always allowed to criticize the government publicly without reprisal. In September the speaker of parliament issued a ruling that the longstanding “sub judice” practice which prohibited parliamentary discussion of issues under judicial consideration could not be used to bar parliament from debating matters of public interest as it had in the past.

On January 2, President Kibaki signed into law the 2008 amendments to the Communications Act; the amendments permitted government regulation of the media and allowed the information minister to exert political influence on the Communications Commission of Kenya (CCK), the media licensing body. Media pressure on the president resulted in the May withdrawal of the controversial amendments from the Communications Act, which was signed into law. The CCK, the government’s agency mandated to oversee the implementation of the new law, circulated new regulations in late September.

According to the new CCK regulations, “all licensees, except the public broadcaster shall not be assigned more than one broadcast frequency for radio or television broadcasting in the same coverage area.” A license will be granted to only those who offer broadcasting services for at least eight continuous hours per day. No frequency is transferrable to another entity without the CCK’s permission.

Generally the media remained independent despite attempts at intimidation by officials and security forces. The mainstream print media included five daily newspapers, one business-focused daily, and numerous regional weekly newspapers with national distribution. There also were numerous independent tabloid periodicals that appeared irregularly and were highly critical of the government.

Of the several television stations operating in Nairobi, the government-owned Kenya Broadcasting Corporation (KBC) was the only station with a national network of broadcast and cable television, AM and FM radio, and short-wave transmission. Although KBC coverage was generally viewed as balanced, its monopoly on national broadcasting limited the ability of critics of government to communicate with the electorate. The disadvantage to government critics posed by the KBC monopoly on national broadcasting was particularly pronounced in the period prior to the December 2007 general elections. Eleven television stations owned by other media companies and more than 100 radio stations operated in both rural and urban areas.

The international media operated freely; approximately 120 international correspondents worked in the country, and approximately 100 media organizations reported from Nairobi. There were four international FM broadcasters in Nairobi: Radio France International, Voice of America, the British Broadcasting Corporation, and China Radio International.

The government occasionally interpreted laws to restrict press freedom, and officials regularly accused the media of being irresponsible and disseminating misinformation. There were also reports of politicians paying journalists to avoid negative coverage or to plant negative coverage of a political opponent.

In January journalist Francis Kainda Nyaruri was abducted and killed near Nyamira, Kisii. The KNCHR and IMLU reported that the police officer investigating

the case stated that Nyaruri was killed on the orders of senior Nyanza police officers in retaliation for Nyaruris' reporting on police corruption. The Committee to Protect Journalists and the Overseas Press Club of America subsequently reported that neither the police nor the attorney general initiated a credible investigation of the case.

Officials used libel laws to suppress criticism.

During the year Minister of Finance Uhuru Kenyatta sued the Nation Media Group over its coverage of discrepancies in the national budget. Aaron Ringera, the former chairman of the Kenya Anti-Corruption Commission, initiated a libel case against the Standard Daily newspaper. No new details were available on these cases by year's end.

The government cited national or public security as grounds to suppress views that were politically embarrassing. The Kenya National Dialogue and Reconciliation Monitoring Project (KNDR) reported that two journalists for the Star newspaper were charged in court for threatening national security. In October the KNDR reported that journalists reporting on the security sector were often intimidated by government officials and requested to reveal sources.

Internet Freedom.—There were no government restrictions on access to the Internet. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Internet service was limited in rural areas due to lack of infrastructure. According to the International Telecommunication Union statistics for 2008, approximately 8.6 percent of the country's inhabitants used the Internet.

In July the government announced that all cell phone users must provide the government with their name and identification number for each line owned; this announcement also affected citizens who accessed the Internet through cell phone-based modems, potentially enabling the government to monitor Internet use.

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

A number of publications remained banned, including the Quotations of Chairman Mao Zedong and Salman Rushdie's *Satanic Verses*. The Prohibited Publications Review Board reviewed publication bans.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The constitution and law provide for freedom of assembly, but the government frequently restricted this right in practice. Organizers must notify local police in advance of public meetings, which may proceed unless police notify organizers that the meeting is prohibited. According to the law, authorities may prohibit such gatherings only if there are simultaneous meetings previously scheduled for the same venue or if there is a perceived, specific security threat. However, police routinely denied requests for meetings filed by human rights activists and dispersed meetings for which no prohibition had been issued. Civil society groups noted that when they tried to comply with the licensing policy, police often refused to issue permits in a timely manner.

For example, BLM and the KNCHR reported that police frequently disrupted weekly political discussions held by BLM on a weekly basis at Jevanjee Gardens, Nairobi, and at times arrested participants. In December police arrested and prosecuted 22 BLM members for unlawful assembly under the Chiefs Authority Act, which stipulates that any gathering of more than three persons must have government approval.

Police forcibly dispersed demonstrators.

In March, according to IMLU, police beat students with clubs and guns when breaking up a student demonstration at Kenyatta University, resulting in 14 documented injuries.

No action was taken against police responsible for injuring six persons while dispersing demonstrators in Nairobi protesting election results.

Freedom of Association.—The constitution and law provide for freedom of association, and the government generally respected this right. The Societies Act requires that every association be registered or exempted from registration by the registrar of societies. The 2008 Political Parties Act, which increased the fee for registering a political party to 600,000 shillings (\$8,000), resulted in a decrease in the number of political parties from 138 in 2007 to 47 by year's end.

The 2002 ban on membership in the Mungiki criminal organization remained in effect. The Mungiki espoused political views and cultural practices that are controversial in mainstream society. Also in 2002 the government declared the group a criminal organization because it ran protection rackets, particularly in the public transportation sector, and harassed and intimidated residents. The Mungiki had a significant following among the poor and unemployed. Other prohibited criminal organizations with political or cultural trappings included the Kamjesh, Chinkororo,

Baghdad Boys, Jeshi la Embakasi, Jeshi la Mzee, Amachuma, Sungu Sungu, and a local group called “the Taliban.”

c. Freedom of Religion.—The constitution provides for freedom of religion, and the government generally respected this right. There was considerable tolerance among religious groups; however, some Muslims believed they were treated like second-class citizens in the predominantly Christian country.

The government requires new religious organizations to register with the registrar of societies. The government allowed indigenous religious organizations to register, although many chose not to do so. Religious organizations generally received equal treatment from the government; however, some small splinter groups found it difficult to register due to their inability to define their status as more than an offshoot of a larger religious organization.

According to Muslim leaders, authorities rigorously scrutinized the identification cards of persons with Muslim surnames, particularly ethnic Somalis, and sometimes required additional documentation of citizenship, such as birth certificates of parents and even grandparents. The government stated that the heightened scrutiny was an attempt to deter illegal immigration rather than to discriminate against ethnic Somalis or their religion. However, there were reports that the government arbitrarily arrested Muslim men as terrorist suspects.

For example, in September the MHRF alleged that five Muslims suspected by the government of involvement in terrorist activity were abducted by ATPU and subsequently disappeared (see section 1.b.).

There were no reported developments in the 2008 case of a Lamu imam arrested on suspicion of aiding the paramilitary training of youths.

Societal Abuses and Discrimination.—During the year tensions between Muslim and Christian groups occasionally resulted in violence.

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

Witchcraft was illegal but still practiced, and mobs sometimes killed alleged witches (see section 1.a.).

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/irf/rpt/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights.

Police routinely stopped vehicles throughout the country and often engaged in solicitation of bribes at such checkpoints. Ethnic Somalis were required to provide additional identification. HRW stated that the government illegally detained and deported ethnic Somalis and Ethiopians on the assumption they were potential terrorists; the NGO believed that some of these deportees were Kenyan citizens and legal residents.

Refugee freedom of movement was severely restricted, and the government maintained its restriction on travel outside of refugee camps unless approved by the government and the United Nations High Commissioner for Refugees (UNHCR). There were instances in which refugees outside of the camps were detained despite holding valid travel passes.

Civil servants and MPs must obtain government permission for international travel, which generally was granted.

The law prohibits forced exile and the government did not use it. However, four witnesses to the OFFLACK killings went into self-imposed exile after being intimidated by the police (see section 1.a.).

Internally Displaced Persons (IDPs).—In September President Kibaki ordered that approximately 7,000 of the 350,000 persons who fled their homes in Rift Valley Province, Central Province, Nairobi, and other sections of the country as a result of 2008 postelection interethnic violence, still had not been resettled in their home regions. In May 2008 the government announced “Operation Rudi Nyumbani” (Operation Return Home) to return IDPs in camps to their homes; however, the majority of IDPs chose to relocate to transit sites near to their homes. By the end of 2008 the government had closed or ceased providing services to IDP camps; however, the Kenya Red Cross Society reported that 99,198 IDPs resided in transit sites at the beginning of the year. IDP camp residents complained that police used force and did not offer adequate compensation during the resettlement.

Rapes allegedly perpetrated by residents of camps, local residents, and sometimes by police personnel occurred in IDP camps. In May 2008 the representative of the UN secretary-general on the human rights of IDPs visited the country and concluded that the returns of some IDPs were not voluntary and based on informed

choices. In an October 2008 report, the KNCHR found that the government had used intimidation and force to remove IDPs from camps and had failed to provide housing, food, and clean water to resettled camp residents. The KNCHR also found that resettled residents were exposed to sexual violence and harassment.

During the year government eviction and destruction of homes in low income areas resulted in IDPs. For instance, in July police bulldozed homes in Githogoro Village, Nairobi, displacing 3,000 residents.

During the year there were many other causes of displacement, including land disputes and flash floods. Throughout the year NGOs reported that hundreds of pastoralists were displaced in conflicts over pasture and watering holes in semiarid regions of North Eastern, Eastern, and Rift Valley provinces. During the year Karamojong from Uganda engaged in cross-border cattle raids in Western Rift Valley Province, resulting in death and displacement among the Pokot and Turkana tribes.

An unknown proportion of the several thousand persons displaced by ethnic clashes from the 1990s had not returned to their homes due to fear of renewed violence.

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 Convention relating to the Status of Refugees, its 1967 Protocol, and the 1969 Organization of African Unity Convention Governing the Specific Aspects of the Refugee Problem in Africa. The country is a signatory of this convention. Its laws minimally provide for the granting of asylum or refugee status, and the government has established a system for providing protection to some refugees.

The government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. However, there were reports of forcible returns of Somali asylum seekers throughout the year; the Kenya-Somalia border remained officially closed, preventing asylum seekers from legally entering Kenya. Somali asylum seekers reportedly paid approximately 7,500-15,000 shillings (\$100- \$200) per family in bribes and transportation costs to travel from the Kenya-Somalia border to the Dadaab refugee camps.

During the year international donors initiated a program to transfer the responsibility of registering all asylum seekers and determining refugee status from the UNHCR to the government. The government also registered refugees in Dadaab camps, located in the northeastern part of the country; however, many refugees had not received their identification documents by year's end.

The government permitted the UNHCR to register and assist new arrivals who successfully made their way to one of the three Dadaab refugee camps. The UNHCR registered more than 59,000 new arrivals in the Dadaab camps between January and the end of November, increasing the camp size to more than 266,000 (the three camps were designed to accommodate 90,000 refugees). In August the UNHCR requested government permission to build a fourth camp in Dadaab due to severe overcrowding; however, as of year's end the government had not responded. Between August and October the International Organization for Migration (IOM) transported more than 13,000 newly arrived Somali refugees from the Dadaab camps to the Kakuma camps to minimize overcrowding.

The UNHCR stopped providing newly arrived refugees with plots in the Dadaab camps, restricting assistance to limited nonfood items (plastic sheeting and cooking utensils) and instructions to locate clan members or search for accommodations in Dadaab refugee camp. Cholera, meningitis, H1N1, and measles outbreaks were all reported in Dadaab. Many new refugees reportedly were bypassing Dadaab camps because of the conditions and continued directly to the Kakuma camp or on to Nairobi.

Despite the policy that all refugees must reside in camps (encampment policy), slightly more than 45,000 refugees were registered in Nairobi as of December; however, the UNHCR provided assistance to these refugees only in exceptional cases. Unofficially, the UNHCR and NGOs estimated that more than 100,000 refugees resided in Nairobi. The government did not provide opportunities for local integration; however, it worked closely with the UNHCR in facilitating refugee resettlement to other countries.

Security concerns, including rape, banditry, and shooting, remained problems at both Dadaab and Kakuma refugee camps. Health and social workers at the camps reported that due to strong rape awareness programs, victims increasingly reported such incidents, resulting in improved access to counseling. During the year approximately 249 crimes were reported in Kakuma refugee camp, including two homicides and three cases of sexual assault. There were no reported cases of sexual assault by police in either camp. Fifteen relief agencies followed a code of conduct for hu-

manitarian workers to further reduce incidents of sexual abuse by agency staff in refugee camps.

Other security and human rights problems affecting refugees included persecution of Muslim converts to Christianity, community pressure against opponents of female genital mutilation (FGM), forced marriage, particularly of young Sudanese and Somali girls, and family objections to out-of-clan marriage. At times these resulted in the kidnapping of spouses and children. The UNHCR requested increased police presence in the identified troubled areas, as well as increased patrolling within the refugee camps. Additional police were also assigned to the camps but not in sufficient numbers.

There were isolated incidents of interclan violence at the Dadaab refugee camps.

The government required all refugees to remain at UNHCR camps, which were located near the country's borders with Somalia and Sudan, unless refugees had been granted permission to attend higher education institutions, receive specialized medical care outside the camp, or to leave to avoid security threats.

The government introduced mobile courts to serve the camp populations, which were fully fledged judicial courts and instrumental in curbing crime and violence.

The government had not provided temporary protection since 2004 to individuals who may not qualify as refugees under the 1951 convention and its 1967 protocol.

Stateless Persons.—During the year the UNHCR estimated that 100,000 stateless Sudanese Nubians, reportedly the descendants of Sudanese forcibly conscripted by the British in the early 1900s, lived in the country. The Sudanese Nubians were not granted citizenship or identification documents, despite the UNHCR reporting that the Nubians qualified for citizenship under prevailing nationality law. In 2003 the Nubians sought judicial relief from the Constitutional Court to be declared citizens by birth. Citizenship is determined by *jus sanguinis* (based on parentage), but the law also provides citizenship for Africans brought to the country by colonial authorities. In 2005 the Nubians filed a memorandum of admissibility with the African Commission on Human and Peoples' Rights under the African Charter on Human Rights. In 2007 the commission heard arguments on the admissibility of the case. The government presented its arguments and filed a brief on the merits of the case. No further information on the case was available at year's end.

According to the UNHCR, an unknown number of descendants of mixed Eritrean-Ethiopian marriages also were stateless. They were unable to obtain citizenship in either of those countries due to strong nationalist prejudices. Their lack of proper documentation resulted in difficulties finding employment.

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

The constitution and law provide citizens the right to change their government through free and fair multiparty elections, and citizens exercised this right through generally free and fair local and legislative elections held on the basis of universal suffrage. However, the manner in which the December 2007 presidential election results were tallied raised serious doubts as to whether this right was respected in practice on the presidential level.

Elections and Political Participation.—In December 2007 the country held local, parliamentary, and presidential elections. A total of 117 parties contested local elections, presenting 15,332 candidates, and 138 parties contested parliamentary elections, putting forth 2,548 candidates. Nine parties nominated presidential candidates.

Voting and counting at polling stations for the 2007 elections were generally conducted in accordance with democratic standards, although there were irregularities in both opposition and progovernment strongholds. International observers concluded that the tallying irregularities by the Election Commission of Kenya (ECK) in Nairobi undermined the credibility of the ECK. In December 2007 the ECK announced that President Kibaki won the election; violent protests ensued.

A mixed Kenyan-international commission appointed during the year to evaluate the elections found that the election results were "irretrievably polluted." The commission also reported that the election results, and especially the presidential election results, lacked integrity.

International and local monitors reported that the election campaign for the 2007 elections was generally free and fair, although there were instances of violence between supporters of rival parties, especially among progovernment parties. Although the government required parties to register prior to political rallies, the government by and large did not interfere with party campaign activities. Police generally reacted professionally to instances of campaign violence. Text messages, pamphlets, and Web logs were sometimes used to disseminate hate speech that was banned under the election code of conduct. The KNCHR and other civil society organizations

accused the government of misusing state resources by providing transport and funding rallies and election materials for some candidates in the election campaign. While nearly 14.3 million citizens registered to vote, an independent review commission concluded that voter rolls contained the names of approximately 1.3 million deceased persons.

In accordance with the National Accord, the ECK was abolished in November 2008 and an Interim Independent Electoral Commission (IIEC) was established in May. In August the IIEC conducted two parliamentary by-elections, in Shinyalu and Bomachoge constituencies. The by-elections were deemed free and fair by domestic and international observers, although there were problems with the voter register, and several political parties bribed voters in exchange for votes. By year's end the IIEC had not yet initiated the creation of a new national voter's register as mandated in the National Accord.

Other reforms mandated by the National Accord and intended to address the root causes of violence following the 2007 elections (such as constitutional, judicial, police, and land reforms) were not completed by year's end.

Women's participation in electoral politics remained low; however, a record number of female candidates ran for parliament and for local office in 2007, despite harassment and attacks. Women constituted only 10 percent of all parliamentary candidates and held 21 of the 222 seats in parliament. Women also held seven of 40 ministerial portfolios.

While the constitution does not specify representation for women, youth, or minorities, it emphasizes gender equality. Moreover, the constitution provides that 12 nominated parliamentary seats be filled by parties in proportion to the number of seats held in parliament; six of the 12 nominated MPs were women.

Section 4. Official Corruption and Government Transparency

Executive and Legislative Corruption.—The law provides criminal penalties for official corruption; however, the government did not implement these laws effectively, and officials often engaged in corrupt practices with impunity. The World Bank's 2008 Worldwide Governance Indicators reflected that corruption was a severe problem.

Frequent press reports of government corruption fueled a widespread public perception that massive corruption persisted up to the highest levels of the government and in parliament and that the government took little official action against the most corrupt.

During the year the media reported on three major corruption cases linked to the government: one involving oil; one involving education; and one involving maize. In the oil case, parastatal Kenyan Pipeline Company directors and employees colluding with executives from the Triton Oil company allegedly illegally released over 126 million liters of oil to Triton. The scheme allowed Triton to make large profits selling oil that it did not own. Since the pipeline company was responsible for managing those stocks, the government owed creditors up to 7.6 billion shillings (\$101 million) after Triton Oil collapsed. In the second case, 25 Ministry of Education officials were suspended after reports that an estimated 174 million shillings (\$2.3 million) were stolen from the Free Education program. Foreign funding was suspended until those involved have been punished and the money returned. In the third case, the minister of agriculture, MPs, and officials from the National Cereals and Produce Board were implicated in the theft and resale of maize from the strategic grain reserve. In return for political favors, MPs were allegedly allowed to sell the grain, which was intended to help ordinary citizens, to millers for large profits. According to a World Bank report, the scandal cost citizens more than 22.7 billion shillings (\$300 million). A report from the Anti-Corruption Commission exonerated all of the alleged participants. No one had been prosecuted in any of these cases by year's end.

In December 2008 the Kenya Anti-Corruption Commission (KACC) sued seven current and former MPs for making fraudulent reimbursement claims for allowances totaling 20 million shillings (\$250,000). Among those accused was Information Minister Samuel Poghiso, who denied taking 2.8 million shillings (\$37,000) in 2006 and 2007. Four additional MPs were sued in January for recovery of false reimbursements totaling 14 million shillings (\$187,000). Both cases were pending at year's end.

In 2003 the government created the KACC and in 2004 appointed a director and other staff. The KACC lacks prosecutorial powers and can only recommend cases for prosecution to the attorney general. By year's end, according to the KACC, it had recommended 382 cases for prosecution to the attorney general, including eight ministers, four MPs, 11 permanent secretaries, seven chairpersons of boards of public institutions, 65 directors and chief executive officers of top public institutions, and

96 other senior level management officers of public institutions. The attorney general accepted the prosecution recommendations in 316 of the cases and has won convictions in 74 of the cases, all involving low- and mid-level officials.

Local anticorruption NGOs claimed that the KACC accomplished little, despite significant financial support provided by the government. Some civil society organizations reported that the government also used the commission to harass critics. In 2007 the NGOs Name and Shame Corruption Network Campaign and the Center for Law and Research International claimed the KACC failed to investigate and prosecute influential persons and criticized its failure to address the Goldenberg and Anglo Leasing megascandals. Since President Kibaki assumed office in 2002, no top officials have been successfully prosecuted for corruption, despite numerous scandals.

In August President Kibaki unilaterally reappointed Aaron Ringera as the head of the KACC. This action drew widespread outrage from parliament, society in general, the NGO community, and international observers, since the appointment bypassed rules that require a recommendation by the KACC advisory board and approval from parliament. Parliament subsequently passed a motion nullifying Ringera's reappointment, which the executive argued was not binding. Ringera, who was the head of KACC since its inception and was widely viewed as ineffective, voluntarily resigned in September.

Judicial Corruption.—In May the government appointed a multidisciplinary task force to examine accelerating judicial reforms. The task force presented an interim report in June and the final report in August. The report was forwarded to cabinet for approval and once approved, a bill will be presented to parliament for vote. The main recommendations included hiring additional judicial personnel, standardization and automation of court processes, introduction of small claims courts, introduction of a permanent mechanism to handle complaints against the judiciary, and additional funding.

Widespread corruption existed at all levels of the civil legal system. Bribes, extortion, and political considerations influenced the outcomes in large numbers of civil cases.

The chief justice dealt with complaints against specific judges and magistrates; most complaints were mainly related to court management.

Police Corruption.—In 2008 OFFLACK noted endemic bribery in police recruitment. The police often recruited unqualified candidates who had political connections or who paid bribes, which contributed to poorly conducted investigations.

Impunity was a major problem. Police officers were rarely arrested and prosecuted for criminal activities, corruption, or for using excessive force. Authorities sometimes attributed the absence of an investigation into corruption or an unlawful killing to the failure of citizens to file official complaints. However, the required complaint form was available only at police stations, and the public was rather skeptical regarding a process that assigned the investigation of police abuse to the police themselves.

The government took some steps in 2009 to curb police abuse. In May Internal Security Minister George Saitoti inaugurated the National Task Force on Police Reform, an 18-member team. The task force was guided by the Waki and Kriegler reports and the Vision 2030 plan. The report was completed in October, following five months of gathering and analyzing views from the public and security experts.

In September President Kibaki removed Hussein Ali as police commissioner. Ali was identified as one of the key officials that were a stumbling block to reforms in the police force in official reports. His tenure was marred by extrajudicial killings of more than 500 Mungiki members in 2007 and also brutal police killings and human rights violations during the 2008 postelection violence. This move was widely hailed as a positive step by society, the NGO community, and international observers.

In September 2008 the Ministry of Provincial Administration and Internal Security established a police oversight board to hear public complaints and recommend disciplinary actions. By year's end the board was not functional due to a lack of political will and police concerns that they were not represented.

The Public Officers and Ethics Act require that senior officials disclose their assets. However, the law does not require that disclosures be released to the public or the media.

There is no freedom of information law; however, access to government information, particularly through the Internet, improved. The government spokesman's briefings were televised, and updates of many government Web sites were prompt. Parliamentary debate continued to be televised live and broadcast via radio to the general public.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. With the exception of the police, government officials were usually cooperative and responsive to the queries of these groups. However, there were reports that officials also intimidated NGOs and threatened to disrupt their activities, and that provincial administrators and security forces interfered with less-established NGOs, particularly in rural areas. For example, in 2008 local authorities filed criminal charges against two persons who helped document allegations of human rights abuses against security forces in the Mount Elgon region. WKHRW officers fled the country following intimidation from local officials in 2008; however, they returned to the country during the year. Human rights activists also claimed that security agencies conducted surveillance of their activities.

In February the UN special rapporteur on extrajudicial, summary, or arbitrary executions visited the country to investigate extrajudicial killings. He released a report documenting hundreds of extrajudicial killings by the security forces and the existence of death squads. The government rejected the report and its recommendations and filed a protest with the UN.

During the year cabinet ministers, political leaders, and businessmen suspected of orchestrating the 2008 postelection violence allegedly directed gangs and security agents working on their behalf to intimidate and beat witnesses to the postelection violence who testified before the CIPEV. Although the minister of justice acknowledged that witnesses had been intimidated, beaten, and in some instances forced into hiding, neither the Ministry of Justice nor the Attorney General's Office took effective steps to protect the witnesses.

Approximately 15 domestic organizations advocated for human rights in the country; 14 were independent of the government. Several NGOs maintained comprehensive files on local human rights abuses. A number of attorneys represented the indigent and human rights advocates without compensation, although they could handle only a small percentage of those who needed assistance and were concentrated in Nairobi and other large cities. The government sometimes allowed human rights organizations to witness autopsies of persons who died in police custody. The government also permitted NGOs to provide paralegal services to prisoners; the KNCHR noted that reports of human rights abuses decreased in prisons with resident paralegals.

NGOs monitored the August by-elections in cooperation with the KNCHR and foreign diplomatic missions.

A number of human rights organizations, including the Kenya Human Rights Commission, IMLU, and KNCHR, produced reports cataloguing human rights abuses. The KNCHR has the status of an appeals court and can issue summonses, order the release of prisoners, and require compensation for human rights abuses. However, the government routinely ignored the KNCHR's summonses and orders, and the attorney general filed a brief with the High Court seeking to strip the KNCHR of its judicial powers (see section 1.e.).

As required by the National Accord, the government established the TJRC to investigate politically and ethnically motivated human rights abuses since independence. The TJRC had not held any hearings by year's end.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law prohibit discrimination based on race, tribe, place of origin or residence, or other local connection, political opinions, color, creed, or gender. It also provides for limited rights for the disabled, but does not prohibit discrimination based on language or social status. Government authorities did not enforce effectively many of these provisions. There was also evidence that some government and opposition officials tolerated, and in some instances instigated, ethnic violence. The law criminalizes homosexual activity.

Women.—The law criminalizes rape, defilement, sex tourism, and sexual harassment; however, implementation remained limited, and as many as 95 percent of sexual offenses were not reported to the police. The law does not specifically prohibit spousal rape.

The law provides a maximum penalty of life imprisonment for rape, although sentences usually were no longer than the minimum of 10 years. The law establishes a minimum sentence for defilement—defined as a sexual act with a child involving penetration—of life imprisonment if the child is under 11 years old, of 20 years if the child is between 11 and 16 years old, and of 10 years if the child is between 16 and 18 years old; a child is any person under 18 years of age. NGO activists com-

plained that a provision in the law that criminalized false claims of sexual assault deterred the reporting of sexual offenses.

In 2008 official police statistics indicated 627 rapes during the year, but human rights groups estimated that more than 21,000 rapes were perpetrated annually. The rate of reporting and prosecution of rape remained low because of the police practice requiring that victims be examined by a police physician; cultural inhibitions against publicly discussing sex; victims' fear of retribution; police reluctance to intervene, especially in case cases where family members, friends, or acquaintances were accused of committing the rape; poor training of prosecutors; and the unavailability of doctors who might provide the evidence necessary for conviction.

According to NGOs, police procedures in handling cases of sexual assault created substantial barriers to the investigation and prosecution of suspected perpetrators of rape and sexual assault. Police prosecutors required victims of sexual assault to be examined by a police physician prior to the initiation of an investigation and required the same physician to testify during trial. As of year's end there was only one police physician in Nairobi, and police physicians were generally not present in rural areas. The police physician in Nairobi frequently issued examination reports that conflicted with the findings of other medical professionals, was often not available to conduct exams, and frequently failed to appear in court. As a result, numerous alleged cases of sexual violence were not investigated by the police, and numerous cases were dismissed from court due to the absence of the police physician.

The government did not investigate or prosecute reported incidents of widespread sexual violence following the disputed election in 2008 and 2007.

Domestic violence against women was a serious and widespread problem but often condoned by society and the courts. The penal code does not contain specific provisions against domestic violence, but treats it as assault. Police generally refrained from investigating cases of domestic violence, which they considered a private family matter. The 2008-09 Kenya Demographic and Health Survey found that 39 percent of women had been the victims of domestic physical or sexual abuse. NGOs, including the Law Society of Kenya and the Federation of Women Lawyers, provided free legal assistance to some victims of domestic violence.

Prostitution is illegal but was widespread. While operating a brothel is illegal, soliciting prostitution is not a crime. Police arrested women engaged in prostitution. High rates of prostitution existed in tourist areas such as Nairobi and coastal tourist areas. A 2006 study report by the UN Children's Fund (UNICEF) estimated that as many as 30 percent of minor girls ages 12 to 18 engaged in prostitution to varying degrees in coastal tourist areas.

The law prohibits sexual harassment; however, sexual harassment continued to be a problem. It was often not reported and rarely resulted in charges being filed.

Subsidized contraception options, including condoms and birth control pills, were widely available to both men and women throughout the country, although access was more difficult in rural areas. The UN estimated in 2007 that 39 percent of adult women used contraceptives regularly. Skilled obstetric and postpartum care was available in major hospitals, but many women were unable to access or afford these services. Also in 2007 the UN estimated that 88 percent of women had at least one antenatal exam, and 42 percent had skilled obstetric care during childbirth.

The government and private organizations supported a network of more than 8,000 counseling and testing centers providing free HIV/AIDS diagnosis. Diagnosis of other sexually transmitted infections was available through hospitals and clinics throughout the country. HIV/AIDS carried social stigma, and many citizens avoided testing due to social pressure.

The law provides equal rights to men and women and specifically prohibits discrimination on grounds of gender; however, women experienced a wide range of discrimination in matrimonial rights, property ownership, and inheritance rights. Women constituted an estimated 75 percent of the agricultural work force and were active in urban small businesses. The average monthly income of women was approximately two-thirds that of men. Women held only 6 percent of land titles; under traditional law, women in many ethnic groups could not own land. Women had difficulty moving into nontraditional fields, were promoted more slowly, and were more likely to be laid off. Societal discrimination was most apparent in rural areas. Women also faced discrimination in access to employment and to credit. The justice system—particularly customary law—often discriminated against women, limiting their political and economic rights and relegating them to second-class citizenship. In 2007 the government pledged to reserve one-third of civil service positions for women but had not implemented its pledge by year's end.

The Law of Succession, which governs inheritance rights, provides for equal consideration of male and female children but terminates the inheritance rights of widows if they remarry. Moreover, a widow cannot be the sole administrator of her hus-

band's estate unless she has her children's consent. The law also allows the Ministry of Justice to exempt certain communities from the law in deference to tradition, which in some cases, provides for equal distribution of a man's property only among his sons. The law allows only males to transmit citizenship automatically to their spouses and children.

Certain communities commonly practiced wife inheritance, in which a man inherits the widow of his brother or other close relative, regardless of her wishes. Other forced marriages were also common. Although poor and uneducated women were more likely to be inherited or suffer from property and inheritance discrimination, prominent and educated women sometimes were victims.

Children.—According to 2007 UNICEF data, only 64 percent of births in urban areas and 48 percent in rural areas were registered. Lack of official birth certificates resulted in discrimination in delivery of public services such as education and health care.

Primary and secondary education was tuition-free (although secondary enrollment was limited to students who obtained high scores on standardized primary exams); however, classes were overcrowded due to insufficient teachers and an inadequate budget. According to 2007 UNICEF data, approximately 79 percent of eligible children were enrolled in primary school, while only 13 percent of eligible minors were enrolled in secondary school. Boys outnumbered girls in secondary education by approximately 25,000 students. Rural families were more reluctant to invest in educating girls than boys, particularly at higher levels. Approximately 40 percent of university students were female.

In 2008 the Centre for the Study of Adolescence reported that between 10,000 and 13,000 girls dropped out of school annually due to pregnancy. While the Education Act gave pregnant girls the right to continue their education until and after giving birth, NGOs reported that schools often did not respect this right and that schoolmasters sometimes expelled pregnant girls.

Teachers often impregnated secondary students, a practice Minister for Education Sam Ongeri criticized in April. A report released in November by the Teachers Service Commission found that 12,660 female students were sexually abused by teachers from 2003 to 2007.

In 2008 the Ministry of Education estimated that 80,000 children dropped out of school annually due to forced marriages and child labor. Cherish Others, a local NGO, reported 30 cases of child marriage in TransMara district during the year but also noted that local officials had managed to prevent many more child marriages. In 2008 UNICEF reported that nine out of 10 children from poor households failed to complete primary education.

The government ordered provincial administrators to arrest parents who did not take or send their children to school. However, this law was not enforced uniformly.

The government banned corporal punishment in schools; however, there were reports that corporal punishment occurred throughout the year, with caning the most frequent form of punishment.

The law prohibits FGM, but it was practiced, particularly in rural areas. FGM usually was performed at an early age. According to UNICEF, one-third of women between the ages of 15 and 49 had undergone FGM, and in June an obstetrician estimated that 32 percent of women had suffered from the procedure. Of the country's 42 ethnic groups, only four (the Luo, Luhya, Teso, and Turkana who together constituted approximately 25 percent of the population) did not traditionally practice FGM. According to the Ministry of Gender and Children Affairs, in 2008 90 percent of girls among Somali, Kisii, Kuria, and Maasai communities had undergone the procedure. The rates among other communities were: Taita Taveta (62 percent); Kalenjin (48 percent); Embu (44 percent); and Meru (42 percent). FGM was less practiced among the Kikuyu and Kamba, with 34 percent and 37 percent respectively. There were public awareness programs to prevent the practice, in which government officials often participated.

Some churches and NGOs provided shelter to girls who fled their homes to avoid FGM, but community elders frequently interfered with attempts to stop the practice. Various communities and NGOs have instituted "no cut" initiation rites for girls as an alternative to FGM.

In August two girls were forcibly circumcised against their will in Narok, after previously fleeing threats of FGM by their families.

Child rape and molestation continued to be serious problems. Police reported that 1,626 children were defiled in 2008. Newspapers contained frequent reports of molestation or rape of children by relatives, neighbors, teachers, police, and clergy. In 2007 the Nairobi Women's Hospital handled 915 cases of child abuse; however, the stigma attached to sexual violence made many persons reluctant to report such cases or seek assistance, and the true rate of occurrence was likely much higher.

NGOs The CRADLE and Care Kenya released a 2006 report entitled Robbing the Cradle that indicated an increase in child sexual abuse and a decrease in the age of the youngest victims. The most vulnerable victims were girls under age 18 and boys ages three to eight. Most child abusers were neighbors, fathers, and other relatives. Teachers were the worst perpetrators in the professional category, with pastors and police officers following closely.

There were no developments in the following 2008 cases: the alleged impregnation of four primary school students in Homa Bay by a teacher, and a Nairobi teacher arrested for defiling a two-year-old boy.

Media reported discrimination against uncircumcised boys.

Newspapers frequently highlighted the problem of child marriages, which was commonly practiced among certain ethnic groups. According to UNICEF, 25 percent of young women had been married as children. The Marriage Act forbids marriage under the age of 16, but the Mohammedan Marriage and Divorce Act allows Muslim girls to marry at puberty. If a marriage is entered into under the provisions of the act, any court hearing matters related to the marriage will apply the provisions of the act when deciding the case.

Child prostitution increased in recent years due to both poverty and the increase in the number of children orphaned by HIV/AIDS. Strong growth in the tourism industry also led to a large increase in foreign and domestic tourists seeking sex with underage girls and boys. During the year political leaders expressed concern that minors in drought affected communities were leaving school and being lured to prostitution to cater for basic needs.

There were reports of children joining gangs and militia and of the Mungiki gang recruiting young boys from schools. Armed groups operating in Somalia, particularly the Al Shabaab militia and militias supporting the Transitional Federal Government, allegedly recruited minors from North Eastern Province and refugee camps in the country to fight in Somalia.

Poverty and the spread of HIV/AIDS continued to intensify child homelessness. In 2007 the government began a pilot program to place two million AIDS orphans with families in 20 districts. In 2007 the program placed 5,000 children in homes. In 2006 the African Network for the Prevention and Protection Against Child Abuse and Neglect, a children's rights NGO, estimated that 750,000 children lived on the streets. Street children faced harassment and physical and sexual abuse from police and others, and within the juvenile justice system.

The government operated programs to place street children in shelters and assisted NGOs in providing education, skills training, counseling, legal advice, and medical care to girls abused and street children exploited in the commercial sex industry.

Trafficking in Persons.—The law does not explicitly prohibit all forms of trafficking in persons, although it criminalizes trafficking of children and trafficking in persons for the purpose of sexual exploitation. Persons were trafficked to, from, and within the country. Laws prohibiting the forcible detention of women for prostitution, child labor, transportation of children for sale, and the commercial sexual exploitation of children can also be used to prosecute trafficking-related offenses.

The country was a source, transit, and destination point for men, women, and children trafficked for forced labor and commercial sexual exploitation. Children were trafficked within the country for domestic servitude, street vending, agricultural labor, and commercial sexual exploitation, including in the coastal sex tourism industry. During the year there were reports that ethnic-based criminal organizations and foreign militia, such as the Somali Al Shabaab, recruited youths, including those in refugee and IDP camps. Men, women, and girls were trafficked to the Middle East, other African nations, Europe, and North America for domestic servitude, enslavement in massage parlors and brothels, and forced manual labor. Foreign employment agencies facilitated and profited from the trafficking of Kenyan nationals to Middle Eastern nations, notably Saudi Arabia, the United Arab Emirates, and Lebanon, as well as to Germany. Chinese, Indian, and Pakistani women reportedly transited Nairobi en route to exploitation in Europe's commercial sex trade.

Brothels and massage parlors in Nairobi continued to employ foreign women, some of whom were likely trafficked internally. Ethiopian and Somali nationals were trafficked into and through the country. In June a Ministry of Labor official reported that 800,000 children were out of school and working as manual laborers. According to a 2006 UNICEF/Ministry of Home Affairs research report, between 10,000 and 15,000 girls living in four main coastal resort areas were involved in prostitution, representing up to 30 percent of all 12- to 18-year-old girls living in these areas.

Although police continued to investigate trafficking cases in the country, a database to track trafficking-in-persons cases was not operational by year's end.

Victims trafficked abroad generally were recruited through employment agencies under false pretenses. Domestic trafficking victims were often lured by friends and relatives, who offered them false promises of marriage, good employment, or access to education. Poor families were misled into believing that their child was gaining the opportunity for a better life. Traffickers continued to target poor and illiterate girls in slum areas to work for little or no pay.

For example, the media reported in May a story about a woman repatriated to the country after being lured into forced domestic labor in Saudi Arabia. The woman stated that while in a Saudi detention center, she met 11 other Kenyan women who had been trafficked for forced domestic labor.

Trafficking of Asians generally occurred through recognized border crossing points, using both legitimate and forged travel documents. However, nationals of neighboring countries were often trafficked using forged travel documents and entered the country through unmonitored border crossing points.

The minimum penalty for trafficking for sexual exploitation is 15 years' imprisonment, a fine of up to two million shillings (\$27,400), or both. The minimum sentence for child trafficking is 10 years in prison and a fine of approximately two million shillings (\$27,400). Fines in practice were limited; jail time was imposed in some cases.

During the year police assisted with international trafficking in persons investigations in other countries. There were no reports that the government had received any requests to extradite citizens accused of trafficking in persons offenses in other countries.

The police antitrafficking unit, in conjunction with other police formations, has primary responsibility for combating trafficking. Fourteen community policing and child protection police units were established but not fully operational by year's end. Police had limited capacity to track data on trafficking arrests, and no year-end statistics were available.

In September courts convicted a former managing director for the Java House coffee company for three counts of defilement and sentenced him to 15 years' imprisonment. Two codefendants were given 10-year jail terms for subjecting the three minors to prostitution.

In March 119 parents and guardians of 209 children were charged in an Eldoret court with abusing their children by removing them from school and forcing them to work as domestic servants.

There were no developments in the 2008 case of six suspects on trial for allegedly trafficking 14 children in Bomet and Nandi districts.

The media reported in July that two men received one year's imprisonment each in a 2007 case in which an Ethiopian girl was trafficked into the country by her elder brother and forced into early marriage.

Government collaboration with NGOs to combat human trafficking increased. Awareness among government departments continued to grow during the year, largely due to NGO efforts to study the issue, educate the media, and inform the public about the problem. The media, particularly the government-owned Kenya Broadcasting Corporation, reported cases of suspected human trafficking.

The National Steering Committee to Combat Human Trafficking did not meet during the year.

The labor unions, in conjunction with the Ministry of Labor and local NGOs, particularly the Solidarity Center, IOM, and Kenya Association of Private Employment Agencies, worked to limit trafficking for forced labor abroad. The coalition developed a code of conduct to ensure that recruitment is done according to accepted standards and to educate citizens seeking employment abroad about the dangers of forced employment.

The State Department's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The law prohibits discrimination against persons with physical or mental disabilities in employment, education, access to health care, or the provision of other state services; however, the government did not effectively enforce these provisions. The Ministry of Health is the lead ministry responsible for implementing the law, but implementation has been slow. The government has equipped some public buildings with wheelchair ramps, and wheelchair-accessible elevators and sanitary facilities. The government assigned each region a sign-language interpreter for court proceedings.

In 2008 the KNCHR ordered the Kenya Commercial Bank (KCB) to reinstate an employee who had been terminated due to mental illness. The KCB filed a suit objecting to the judicial powers held by the KNCHR; the attorney general's office supported KCB's claims. The court issued an injunction against further intervention, which barred future action from the KNCHR in employee rights matters.

NGOs reported that persons with disabilities were disproportionately affected by postelection violence, especially in IDP camps. However, NGOs reported that camp administrators often failed to recognize those with mental disabilities.

A 2007 study conducted by the KNCHR revealed that many students with disabilities were denied admission to regular schools, while in some cases the government declined to fund special schools. The Education Ministry permanent secretary stated that only 35,000 of the 147,000 children with special needs were enrolled in school, while the KNCHR commissioner contended that fewer than 10 percent of children with special needs were enrolled in school. However, the number of special education teachers who have graduated from the Kenya Institute of Special Education increased to 9,000 in 2007.

The KNCHR also stated that the Kenya National Examination Council (KNEC) failed to provide adequate testing facilities and resources for students with disabilities. KNEC claimed that it provided special accommodations, such as exams in Braille and in large print for visually impaired candidates and extra time to complete exams. The government was developing disability-specific curricula, but the process was slow because the government failed to allocate sufficient resources and staff.

National/Racial/Ethnic Minorities.—The population is divided into approximately 42 ethnic groups, among whom discrimination and occasional violence were frequent. The 1999 census indicated that Bantu ethnic groups constituted approximately 67 percent of the population, of which the Kikuyu and closely related Embu and Meru accounted for 32 percent, the Luhya 16 percent, and the Kamba 10 percent; Nilotic groups constituted 30 percent, of which the Kalenjin accounted for 12 percent and the Luo 11 percent; and Cushitic groups—mainly Somalis—constituted 3 percent of the population. The Kikuyu and related groups dominated much of private commerce and industry and often purchased land outside their traditional home areas, which sometimes resulted in fierce resentment from other ethnic groups. The numerically small and shrinking South Asian community controlled a disproportionate share of commerce.

There was frequent conflict, banditry, and cattle rustling among Somali, Turkana, Gabbra, Borana, Samburu, Rendille, and Pokot ethnic groups in arid regions located in North Eastern, Eastern, and Rift Valley provinces. Intervention by security forces to reclaim stolen cattle resulted in police expropriating cattle which had not been stolen and inflaming ethnic tension.

The government did not investigate alleged abuses committed in 2008 by security forces searching for illegal weapons in El Wak, Garri, and Mandera.

In 2008 the government established CIPEV; it issued a report that called for the establishment of a special tribunal to try suspected organizers of postelection violence. By year's end the government had not established a special tribunal, and the list of suspects prepared by CIPEV was handed by Kofi Annan to the International Criminal Court for investigation. According to the director of public prosecutions, the government prosecuted a number of low level individuals suspected of having engaged in postelection violence; the cases continued at years' end.

Through the provincial administrations, the government held public meetings to promote reconciliation in communities affected by the postelection violence and to establish a forum for dialogue and peaceful resolution of conflicts. NGOs reported that implementation of reconciliation efforts was not uniform.

Many factors contributed to interethnic conflicts: longstanding grievances over land tenure policies and competition for scarce agricultural land, the proliferation of guns, the commercialization of traditional cattle rustling, the growth of a modern warrior/bandit culture (distinct from traditional culture), ineffective local political leadership, diminished economic prospects for groups affected by a severe regional drought, political rivalries, and the inability of security forces to adequately quell violence. Conflict between land owners and squatters was particularly severe in Rift Valley and Coast provinces, while competition for water and pasturage was especially serious in the northern districts of Rift Valley and Eastern Provinces and in North Eastern Province.

In private business and in the public sector, members of nearly all ethnic groups commonly discriminated in favor of other members of the same group. Some neighborhoods, particularly in slum areas of the capital, tended to be segregated ethnically, although interethnic marriage had become fairly common in urban areas.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The penal code criminalizes “carnal knowledge against the order of nature,” which is interpreted to prohibit homosexual activity and specifies a maximum penalty of 14 years' imprisonment. A further statute specifically criminalizes male-to-male sex and specifies a maximum penalty of 21 years' imprison-

ment. However, there were no reported prosecutions of individuals for sexual orientation or homosexual activity during the year.

Lesbian, gay, bisexual, and transgender advocacy organizations, such as the Gay and Lesbian Coalition of Kenya, were permitted to register and conduct activities.

There was frequent and widespread societal discrimination based on sexual orientation during the year. In 2007 the Council of Imams and Preachers of Kenya and other civic leaders condemned homosexuality and argued against legalizing gay marriages. A group in Mombasa created the Muslim Youth Pressure Group to oppose homosexuality in 2007.

Other Societal Discrimination.—There was societal discrimination against persons with HIV/AIDS during the year. Stigmatization of HIV/AIDS made it difficult for many families to acknowledge that a member was HIV-positive, and to date no socially or politically prominent individual has admitted being HIV-positive. However, there were fewer reports of violence against persons with HIV/AIDS.

The Ministry of Defense arranged for uniformed personnel, their families, and some local persons to have access to HIV counseling and testing, prevention programs, and antiretroviral treatment during the year.

The government worked in cooperation with international donors on programs for HIV/AIDS prevention and treatment. This cooperation enabled a continued expansion of counseling and testing as well as care and treatment. These developments were seen as key to reducing stigma and discrimination.

Organizations representing persons with albinism claimed that they suffered widespread discrimination. There were no reported developments in the 2008 case in which a child with albinism was killed in Namanga.

Section 7. Worker Rights

a. The Right of Association.—The law provides that all workers, including those in the export processing zones (EPZs), are free to form and join unions of their choice, and workers exercised this right in practice. Workers numbering seven or more in an enterprise have the right to form a union by registering with the trade union registrar. If the registrar denies registration, a union may appeal to the courts. The armed forces, police, prisons service, and the administration police are explicitly prohibited from forming or joining unions. There were 44 unions representing an estimated 500,000 workers, approximately 5 percent of total employment. The law allows unions to conduct their activities without government interference, including the right to strike, but this right was not always protected.

The law permits workers to strike, but requires formal conciliation procedures to have been exhausted and seven days notice to both the government and the employer. The law permits the government to deny workers the right to strike under certain conditions. For example, members of the military, police, prison guards, and the National Youth Service are prohibited from striking. Other civil servants are allowed to strike following the seven day notice period.

The Ministry of Labor typically referred disputes to mediation, fact-finding, or binding arbitration at the Industrial Court; during mediation any strike is illegal, thus removing legal prohibitions on employer retaliation against strikers. In practice a Ministry of Labor referral to dispute resolution nullifies the right to strike.

b. The Right to Organize and Bargain Collectively.—While not having the force of law, the Industrial Relations Charter (IRC), implemented by the government, Central Organization of Trade Unions (COTU), and the Federation of Kenya Employers, gives workers the right to engage in legitimate trade union organizational activities, and the government protected these rights. Both the Trade Disputes Act and the IRC authorize collective bargaining between unions and employers, and unions and management establish negotiated wages and conditions of employment.

Security forces cannot bargain collectively but have an internal board which reviews salaries. Other groups that cannot bargain collectively, such as health sector workers, have associations, not unions, which negotiate wages and conditions that match the government's minimum wage guidelines; however, these agreements were not legally enforceable. Workers in the military, prisons, and the National Youth Service and teachers under the Teachers' Service Commission do not have the right to bargain collectively.

During the year NGOs and trade unionist reported a trend towards the elimination of permanent positions in favor of casual or contract labor especially in the EPZ, agricultural, and manufacturing sectors. One report stated that casual employment grew by 13 percent during the year, accounting for 32 percent of total wage employment.

Except for the Factories Act, all labor laws apply in the EPZs; however, the EPZ Authority and the government granted many exemptions to applicable laws. For example, the government waived a provision of the law that prevents women from

working in industrial activities at night. The Tailors and Textiles Workers Union claimed that a number of garment producers in the EPZs have refused to recognize the union and resisted its efforts to organize their workers. The law prohibits employers from intimidating workers; however, some antiunion discrimination occurred, including in garment plants in the EPZs. The Industrial Court, a body of up to five judges appointed by the president, can order reinstatement and damages in the form of back pay for employees wrongfully dismissed for union activities.

The government voiced its support for union rights but did not protect them fully. Some unions complained that employers resisted efforts to establish unions in their factories, even where most workers indicated a desire for union membership, and that the Industrial Court and Ministry of Labor and Human Resource Development were ineffective in compelling employers to comply with the law.

In 2008 the government strengthened the labor dispute system by giving the Industrial Court the ability to enforce its decisions. However, during the year union leaders reported that employers often did not comply with reinstatement orders, and workers often accepted payment in lieu of reinstatement.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits slavery, indentured servitude, and forced and bonded labor, including by children, but such practices reportedly occurred. Women, children, and men were trafficked for commercial sexual exploitation and labor (see section 6.).

Forced child labor occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits all forms of child labor that are exploitative, hazardous, or would prevent children under age 16 from attending school. However, child labor was widespread, particularly in the informal sector, and children were trafficked for commercial sexual exploitation and labor. An estimated one million children between five and 17 years of age—most between 13 and 17 years old—worked; approximately 773,000 of those children were classified as child laborers. The employment of children in the formal industrial wage sector in violation of the Employment Act was rare. Children worked primarily in the informal sector, which was difficult to monitor and control. The Ministry of Labor and Human Resources Development nominally enforced the minimum age statute. The ministry remained committed to enforcing minimum age statutes, but implementation remained problematic due to resource constraints.

Children under 13 are prohibited from working, and children between 13 and 16 years of age may perform only “light work” that is not harmful to their health or development and does not interfere with their schooling. However, the law does not apply minimum age restrictions to children serving as apprentices under the terms of the Industrial Training Act. Persons under 18 may not be employed in any industrial undertaking at night, employment should not cause children to reside away from parents without their approval, and permission to work in a bar, hotel, or restaurant requires annually renewed consent from the labor commissioner.

The law prohibits the employment of a child (defined as a person under the age of 18) in any activity that constitutes a worst form of child labor and provides fines for employing children in such activities of up to 200,000 shillings (\$25,000) and/or imprisonment for up to 12 months. The penal code prohibits procurement of a girl under 21 for unlawful sexual relations and criminalizes child commercial sexual exploitation, child labor, and the transport of children for sale. Many children worked on family plots or in family units on tea, coffee, sugar, and rice plantations. Children also worked in mining, including abandoned gold mines, and small quarries, breaking rocks and sifting through tailings. Children often worked long hours as domestic servants in private homes for little or no pay, and there were reports of physical and sexual abuse of child domestics. In addition thousands of children were exploited in the sex industry. Forced or compulsory labor by children, such as agricultural labor, prostitution, and domestic servitude sometimes were initiated by their parents. During the year there were reports children participated in ethnic-based militia activity.

The government worked closely with COTU and the International Labor Organization to eliminate child labor. In 2004 the government prepared a practical guide to labor inspection and trained labor inspectors and occupational health and safety officers to report on child labor. In 2006 the government renewed the three-year mandate for the National Steering Committee on the Elimination of Child Labor, which includes the attorney general, eight ministries, representatives of child welfare organizations, other NGOs, unions, and employers. An Interministerial Coordination Committee on Child Labor, chaired by the minister for gender and children’s affairs, was responsible for setting general policy.

Many NGOs were active on child labor issues and assisted in the return to school of child laborers. During the year the government continued to implement 73 pro-

grams for the elimination of child labor with 25 partner agencies. The partners placed the children in schools, vocational training institutions, and apprenticeships and supported income-generating activities for an estimated 10,000 parents. Partners also provided support to schools for income-generating activities to help keep children from poor families in school.

UNICEF, the Ministry of Tourism and Wildlife, the World Tourism Organization, and NGOs continued to work with hotels and tour operators to increase their awareness of child prostitution and sex tourism. They encouraged all hospitality-sector businesses to adopt and implement the code of conduct developed by the NGO End Child Prostitution and Child Pornography and Trafficking of Children for Sexual Purposes. By year's end 66 hotels on the coast had signed the NGO's code of conduct. The Ministry of Tourism and Wildlife's campaign to register villas and cottages and impose the same requirements as on hotels resulted in an estimated 1,200 registrations. During the year the Child Protection Department employed a total of 160 children's officers, an increase of 100 officers over 2008. In 2008 the government's cash transfer program for orphans and vulnerable children (partially funded by UNICEF) expanded to reach more than 25,000 children in 17 districts, providing approximately 500-1,000 shillings (\$7-\$15) per child per month to help fund basic needs, including school costs, so that the children would not have to work. During the year the government expanded the program to 47 districts serving 43,347 households at an average of rate 600 shillings (\$8) child per month.

e. Acceptable Conditions of Work.—Labor laws passed in 2007 established two weeks' paternity leave, increased maternity leave with full pay from two to three months, and compensated both public and private employees for work-related injuries and diseases contracted at work, among other provisions. However, in 2008 employers challenged the workers' compensation provisions in court. At year's end the case continued.

There is no national minimum wage. However, the government established minimum wages by location, age, and skill level. In many industries the legal minimum wage equaled the maximum wage. The lowest urban minimum wage was approximately 7,578 shillings (\$105) per month, and the lowest agricultural minimum wage for unskilled employees was 2,536 shillings (\$35) per month, excluding housing allowance. In 2007 the Productivity Center of Kenya, a tripartite institution including the Ministry of Labor, the Federation of Kenyan Employers, and COTU, set wage guidelines for various sectors based on productivity, inflation, and cost of living indices. The minimum wage did not provide a decent standard of living for a worker and his or her family. Most workers relied on second jobs, subsistence farming, other informal work, or the extended family for additional support. A large percent of the labor force worked in the informal sector and were not covered by these provisions.

The law limits the normal workweek to 52 hours (60 hours for night workers); some categories of workers had lower limits. The law specifically excludes agricultural workers. An employee in the nonagricultural sector is entitled to one rest day per week, and there are provisions for 21 days of combined annual and sick leave. The law also requires that total hours worked (regular time plus overtime) in any two-week period not exceed 120 hours (144 hours for night workers). The Ministry of Labor and Human Resources Development was responsible for enforcing these regulations. Violations were reported during the year. Workers in some enterprises, particularly in the EPZs and road construction, claimed that employers forced them to work extra hours without overtime pay to meet production targets. In addition employers often did not provide nighttime transport, leaving workers vulnerable to assault, robbery, and sexual harassment. During the year trade unionists complained that some government labor inspectors were bribed by employers to avoid penalties for labor violations.

The law detailed environmental, health, and safety standards; however, the government did not effectively enforce the law. Fines generally were too low to serve as a deterrent to unsafe practices. EPZs are excluded from the Factory Act's provisions. The Ministry of Labor's Directorate of Occupational Health and Safety Services (DOHSS) has the authority to inspect factories and work sites, except in the EPZs; it employed 79 inspectors, far short of the 168 reportedly needed to inspect factories adequately and enforce its safety and health orders. During the year DOHSS carried out 1,976 safety audits and prosecuted 38 companies. In 2008 informal surveys found widespread hazards such as lack of basic safety equipment and emergency escape routes. DOHSS occupational safety and health advisers made 405 safety audits from July 2007 through June 2008. DOHSS prosecuted 29 firms for violating occupational health and safety regulations during the same period. During the year labor unions and NGOs continued to criticize health and safety conditions in the EPZs and other sectors, such as small horticultural producers.

DOHSS health and safety inspectors can issue notices against employers for practices or activities that involve a risk of serious personal injury. Such notices can be appealed to the Factories Appeals Court, a body of four members, one of whom must be a high court judge. The law stipulates that factories employing 20 or more persons should have an internal health and safety committee with representation from workers. DOHSS developed a program to help factories establish the committees and trained them to conduct safety audits and submit compliance reports to DOHSS. According to the government, most of the largest factories had instituted health and safety committees by year's end.

Workers, including foreigners and immigrants, theoretically have the right to remove themselves from situations that endanger health or safety without jeopardy to their employment; however, this right was not effectively enforced, and workers were reluctant to risk losing their jobs.

LESOTHO

Lesotho is a constitutional monarchy with a population of 1.88 million. Under the constitution, the king is head of state but does not actively participate in political activities. The prime minister is head of government and has executive authority. In 2007 the governing Lesotho Congress for Democracy (LCD) party won reelection; domestic and international observers characterized the election as free and peaceful. Some other observers, including members of the leading opposition parties and some nongovernmental organizations (NGOs), felt it was not entirely fair. Many of the complaints were due to the complicated manner of allocating proportional parliamentary seats. The mediation begun by the Southern African Development Community (SADC) in 2007 continued through the efforts of Ketumile Masire, the former president of Botswana. From October 2008 until July, mediations were at a standstill. On July 9, Masire returned to Lesotho to deliver a report on his findings. The report sparked civil society organizations to begin a new round of talks under the mediation of the Christian Council of Lesotho. On August 19, talks were again postponed after the LCD party and opposition parties disagreed about interpretation of the 2007 case of the Independent Electoral Commission (IEC) vs. the Maramatlou Freedom Party (MFP). Although civilian authorities generally maintained effective control of the security forces, there were unconfirmed reports of instances in which elements of the security forces acted independently.

The government generally respected the human rights of its citizens. However, the following human rights abuses were reported: torture and physical abuse; poor prison conditions; and lengthy pretrial detention and long trial delays. Societal abuses included abuse of spouses and children; restrictions on women's rights; discrimination against women and persons with disabilities or HIV/AIDS; and child labor.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings during the year.

However, during the first eight months of the year, the Police Complaints Authority (PCA), which monitors and investigates reports of police abuse, received six complaints of murder and three of deaths of detainees. Those cases were ongoing at year's end.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the constitution and law expressly prohibit such practices, local media reported complaints that security forces tortured and abused persons. Newspapers and radio stations reported several cases of alleged torture by police. For example, in August local newspapers and private radio stations reported that several male residents in the rural village of Nokong, Berea District accused police of torture and unlawful detention. They alleged that police conducted a raid on the village searching for illegal guns at selected homes. After failing to find any illegal weapons, police allegedly took the men from their homes to a plateau overlooking the village and beat them. The claims were being investigated by the Police Inspectorate, Complaints and Discipline Division, at year's end, but no formal charges had been filed.

At year's end there was no official report available concerning the 2007 case in which three street vendors accused of selling marijuana filed complaints of assault, unlawful detention, and theft against the Lesotho Mounted Police Service (LMPS).

In 2007 Lesotho Defense Force (LDF) soldiers detained several men in connection with an alleged coup plot and a search for weapons that allegedly had been forcibly taken from military guards at ministerial residences. Some of the men later gave media interviews in which they claimed to have been held in secret and incommunicado detention. They further stated the LDF interrogated them about their connections to the opposition All Basotho Convention (ABC) party.

In late 2009 the magistrate court dismissed treason charges against the three soldiers, Major Mokhantso, Captain Ramotso, and Corporal Majalle. Two remained active duty soldiers in the LDF at year's end. One was demoted to the rank of captain (from major) following a court martial; he subsequently retired.

Of the six other men who were granted political asylum in South Africa in 2007, four returned to Lesotho and two died in exile, including Makotoko Lerotholi, who died in October. On April 22, there was an unsuccessful attempt to kill the prime minister. Lerotholi was the suspected mastermind of the assassination attempt; he died before the government completed an extradition request.

In March Motlomelo Elias Motlomelo, Mokherane Tsatsanyane, Thabo Thants'I, and Khotso Lebakeng returned to the country voluntarily and turned themselves in to police, who questioned and subsequently released them. On May 4, they held a press conference in Maseru, stressing that they would be "staying out of politics." No charges were filed against them.

Prison and Detention Center Conditions.—Prison conditions were poor, and facilities were overcrowded and in disrepair. Sanitation and nutrition were poor, and prison facilities lacked bedding. Some improvements were made in 2008, and renovation of the Maseru Central and Thaba Tseka District prisons was ongoing. Prisoners received free medical care from government hospitals and were eligible to vote in elections. All prisons had a nurse and a dispensary to attend to minor illnesses. Some correctional facilities owned ambulances to transport inmates for emergency medical care.

The Lesotho Correctional Service (LCS) reported that the total prison population was 2,276, including juveniles. There were 61 juveniles, 50 boys and 11 girls. Under the law, a juvenile is anyone under 18 years of age. A total of 97 percent of prisoners were male. When the prison facilities were built, there was no rule about maximum occupancy. The LCS was uncertain what the maximum number of prisoners per facility should be. Males are held separately from females. Juveniles are held in different detention centers, and males are separated from females within the juvenile detention centers.

The law provides that pretrial detainees and convicted prisoners be held in separate facilities; however, due to lack of space, pretrial detainees—who constituted 18 percent of the prison population—were held with convicted prisoners. Security and military prisoners were held in a separate facility.

Prison regulations provide for visiting committees made up of principal chiefs, church ministers, representatives of the business community, advocates of the High Court, and other citizens. These committees are authorized to visit any prison without the prior knowledge of the prison director and generally were allowed to do so. The committees reported their findings to the prison director as well as to the general public. Officials from the International Committee of the Red Cross (ICRC) visited in December.

International human rights groups were permitted to monitor prison conditions. During the year a committee composed of government officials and the Lesotho Red Cross visited a number of correctional facilities to evaluate the level of professional training and activities available for inmates. The committee concluded that the inmates received satisfactory professional training and guidance.

Lesotho Red Cross officials visited facilities in December and concluded that inmates received satisfactory professional training and guidance.

No further action was taken against prison officials implicated in the 2007 case involving mistreatment of inmates in the Quthing District.

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

Role of the Police and Security Apparatus.—The security forces consist of the LDF, LMPS, and National Security Service (NSS). The prime minister is the minister of defense and national security, with direct authority over the LDF and NSS. The LMPS falls under the authority of the Ministry of Home Affairs and Public Safety.

The LMPS is nationally managed. The country is divided into three police regions, which are further divided into districts. An assistant commissioner of police heads each region; senior superintendents head the districts. Other assistant commissioners are based at police headquarters. A shortage of human and financial resources limited the LMPS's effectiveness.

Prison staff are part of the Lesotho Correctional Service, headed by a commissioner.

The internal affairs organs that address corruption and other offenses by police are the LMPS Inspectorate, Complaints, and Discipline Unit and the Police Complaints Authority (PCA). The PCA, an independent oversight body, monitors police behavior and addresses grievances against police. These bodies prosecuted some members of the security forces. Commonly imposed forms of disciplinary action include fines, suspension, demotion, or dismissal from service.

Current legislation does not grant the PCA powers of search and seizure or the authority to summon police officers. Also, local NGOs have complained that the PCA's inability to initiate cases based on public complaints limits its effectiveness. Cases are initiated only at the request of the minister of home affairs and public safety.

Corruption was a problem, as confirmed by LMPS authorities. In addition to "theft of exhibits" (theft or disappearance of evidence related to a trial proceeding), private transport operators claimed that police solicited bribes from drivers of taxis and buses who violated traffic laws. However, no formal charges of police corruption were made during the year. According to the LMPS Inspectorate, Complaints and Discipline Unit, from January to August there were six complaints of abuse, one of unlawful arrest, one of unlawful search, one of "theft of exhibit," and three of failure to attend to public reports. Lack of accountability was sometimes a problem. The process of enforcing police accountability was slow, but internal affairs organs prosecuted some members of the security forces. More serious offenses, such as murder, were sent to the High Court via the Office of the Director of Public Prosecutions.

PCA data indicated that, between January and August, the PCA received a total of 14 cases. These included six alleged murder cases; three cases of alleged death in custody; two cases alleging assault; one unlawful auction of a complainant's vehicle; unlawful release of a vehicle at an accident scene; and one case of harassment. Seven of the complaints were submitted to the police; the other seven were under investigation.

The case against former police superintendent Ramoeletsi, accused of extorting 980 maloti (\$123) from a local woman in 2007 and suspended that year from the LMPS, was proceeding at year's end.

On June 18, the High Court issued a not guilty verdict in the 2007 case of a deputy police commissioner accused of filing fraudulent *per diem* claims. The government appealed, and its appeal was pending at year's end.

Arrest Procedures and Treatment While in Detention.—The law requires police to obtain a warrant prior to making an arrest. Suspects were apprehended openly and brought before an independent judiciary. Suspects must be informed of charges within 48 hours, and their families must be notified of any detention. The law allows family members to visit inmates. However, according to media reports and LMPS officials, police did not always comply with these provisions in practice. The law provides for bail, which authorities granted regularly and in general fairly. Defendants have the right to legal counsel. Detainees are allowed prompt access to a lawyer; lawyers are provided for indigents. The Legal Aid Division, under the Ministry of Justice and Human Rights, offered free legal assistance, but a severe lack of resources hampered the division's ability to be effective. NGOs maintained a few legal aid clinics.

Pretrial detention could last months or even years. The backlog was due to lack of resources, judicial staffing shortages, delay tactics by defense counsel, and unavailability of legal counsel. The average length of pretrial detention was 60 days, after which authorities usually released pretrial detainees on bail pending trial. The Speedy Trial Act of 2002 provides that a suspect cannot be held in custody for more than 90 days before a trial except in exceptional circumstances.

Amnesty.—The government occasionally granted amnesties on the king's birthday, Independence Day, or Christmas Day. On July 17, the King's Birthday, 41 inmates were released early. On September 17, the Pardons Committee decided how many inmates would be freed during Independence Day celebrations on October 4; the LCS stated that 245 were released in October.

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary, and the government generally respected judicial independence in practice. There was a large case backlog, which resulted in delayed trials.

Trial Procedures.—Defendants are presumed innocent. There is no trial by jury. Trials are public, but in civil cases judges normally hear cases alone. Defendants have the right to be present at their trials and to consult with an attorney in a timely manner; however, there have been some instances in which authorities did not advise accused persons of their right to legal representation. Free legal counsel

was available, either from the state or a legal NGO. Defendants may confront and question witnesses against them and present witnesses on their own behalf. A defendant is allowed to present evidence on his own behalf at the magistrate court, but at the High Court legal representation is required. Defendants have the right to access unclassified government evidence during a trial. The government cannot classify evidence and use it against a defendant. If evidence is going to be used in court, both the plaintiff and the defendant have access. Defendants have the right to appeal. A defendant may either be held or released on bail until sentenced.

In the formal court system, women and men are accorded equal rights. The 2006 Legal Capacity of Married Persons Act improved the status of married women, whether married under formal or customary law, by ensuring that they are no longer legally considered minors. However, in practice women were sometimes still not accorded their full rights under the law.

The constitution and law provide for the right to a fair trial, and an independent judiciary generally enforced this right.

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

Civil Judicial Procedures and Remedies.—There is an independent and impartial judiciary with jurisdiction over civil matters. Citizens can freely access the court system to file lawsuits seeking cessation of human rights violations or a recovery of damages resulting from such acts. Some administrative remedies are available from the Labor Court, as stipulated by the Public Services Act. Judicial remedies for such wrongs are addressed in the constitution. However, in some cases, the government failed to produce evidence in court and sequester witnesses. This could damage the claims of the plaintiffs, leading to dismissal of cases.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution states that “every person shall be entitled to respect for his private and family life and his home.” Although search warrants were required under normal circumstances, the law provides police with the power to stop and search persons and vehicles and enter homes and other places without a warrant if the situation is considered life threatening, if there are security concerns, or in the case of an emergency. The general public reportedly did not know that police are required to have a search warrant. A government source stated that police were known to flaunt their power, even when in possession of a warrant, and neglected to show warrants to homeowners. The Criminal Procedure and Evidence Act of 1981 states that any police officer of the rank of inspector and above can conduct a search without a warrant.

The Lesotho Times reported that, in May and September, police raided the homes of three ABC supporters to search for illegal arms but found none. The men, including one member of Parliament, claimed they were being harassed because of their affiliation with the ABC. Police claimed that they had received a tip that the ABC supporters had weapons.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution and law provide for freedom of speech and of the press, and the government generally respected these rights in practice. An independent press, effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press. However, some journalists practiced self-censorship because the government employed libel suits in previous years. Media outlets risked being sued by the government for slander or libel. Further, state-owned media outlets reflected positions of the ruling party.

Internet Freedom.—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. The Internet was not widely available and almost nonexistent in rural areas, due to a lack of communication infrastructure and the high cost of access. The Lesotho Communications Authority (LCA) estimated that 5.1 percent of inhabitants used the Internet during the year.

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

b. Freedom of Peaceful Assembly and Association.—The constitution and law provide for freedom of assembly and association, and the government generally respected these rights in practice.

On October 22, students rioted at the National University of Lesotho over non-payment of housing allowances for off-campus students. Police were called in: they opened fire on a group of students. One student, reportedly not involved in the riot,

was killed. Statements released by the police immediately afterward claimed that she had been trampled to death, but an autopsy report showed that she was killed by gunfire. Investigations into the killing began, but there were no charges filed.

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

Societal Abuses and Discrimination.—There were no reports of societal violence, harassment, or discrimination against members of religious groups.

There were a small number of Jews, but no practicing Jewish community. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

According to the Ministry of Home Affairs, the government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

The constitution and law prohibit forced exile, and the government did not use it in practice.

Protection of Refugees.—The laws provide for the government's granting of refugee status or asylum in accordance with the 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees, and the government has established a system to provide protection to refugees. The country is a party to the 1969 AU Convention Governing the Specific Aspects of the Refugee Problem in Africa. In practice, the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

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

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

Elections and Political Participation.—In 2007 the LCD party won reelection, claiming 61 of 80 constituency-based seats in the National Assembly; domestic and international observers characterized the election as free and peaceful, but major opposition parties and some NGOs claimed it was not entirely fair due to the complicated manner of allocating parliamentary seats. Through a preelection alliance with the National Independent Party, the LCD controlled a further 21 of 40 proportional representation seats, bringing its majority to 82 out of 120 seats. The largest opposition party, the ABC, won 17 constituency-based seats and 10 proportional seats through its own preelection alliance with the Lesotho Workers Party.

Although both major political parties created alliances in an attempt to gain more seats in the 2007 election, the most contested issue was that the ruling LCD party gained an additional 21 seats. Despite the fact that some legal experts, including those associated with the SADC mediation process, stated that the memoranda of understanding clearly circumvented the intent of the constitution, the Independent Electoral Commission (IEC) accepted the informal alliances.

In July Ketumile Masire returned to Lesotho to deliver his report on the outcome of the SADC mediation—at a standstill since late 2008. Masire stated that the “approach to the matter now taken by the Government of Lesotho” was the reason he could no longer continue to mediate the disagreement. He further stated that the alliances entered into by the LCD and ABC were wrongly allowed, undermining the mixed-member proportional electoral model and making it ineffectual. He added that the LCD's main position—that the High Court has already decided the question of alliances—was not actually true, that the High Court had “decided not to decide,” and that the court's judgment was unhelpful.

Masire's report reignited the desire of the opposition parties to revisit the 2007 allocation of parliamentary seats. On August 5, local civil society organizations led by the Christian Council of Lesotho (CCL) and the Lesotho Council of NGOs (LCN) intervened and brought the opposing sides together for further dialogue.

The talks broke down on August 19, because the two sides still held different views about the High Court's judgment pertaining to the case filed by the MFP in 2007, a point of contention central to the dispute. Other outstanding challenges in-

cluded the disputed allocation of proportional representation seats and the status of the official leader of the opposition in the National Assembly.

The SADC Summit of Heads of State and Government held in Kinshasa, Democratic Republic of the Congo, in September urged all Basotho stakeholders to continue to be engaged and mandated the SADC Troika of the Organ on Politics, Defense, and Security Cooperation, composed of Swaziland (outgoing chair), Mozambique (current chair), and Zambia (incoming chair), to monitor the ongoing discussions.

There were 31 women in the 120-seat National Assembly and six women in the 33-seat Senate. The speaker of the National Assembly, six of 19 government ministers, three of five assistant ministers, five of 10 judges on the High Court, and the commissioner of police were women.

Approximately 98.5 percent of the population is ethnic Basotho. There were no members of minorities in the National Assembly, the Senate, or the cabinet.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption. There were isolated reports of government corruption during the year, but no new high-profile cases of corruption.

The Directorate on Corruption and Economic Offenses (DCEO) is the primary anticorruption organ and investigates corruption complaints against public sector officials. The DCEO reported that public officials were not subject to financial disclosure laws. The DCEO's official statistical report stated that during the year it received a total of 115 reports on subjects including bribery, fraud, abuse of power, embezzlement of public funds, and tender manipulation. Of these reports, nine were closed, 11 were under preliminary investigation, 22 were referred to the police, 29 were referred elsewhere (to the Directorate of Dispute Prevention and Resolution or the Labor Court), 32 reports were pending preliminary investigation, and 13 were referred to the DCEO investigatory division.

In January 2008 the auditor general released an audit of the country's 2003-04 public accounts. The report stated that the public accounts suffered from serious errors and omissions which led to misrepresentation of the government's financial position. Errors included expenditure misappropriation, lack of ledger accounts reconciliations, lack of ministerial expenditure and revenue reports reconciliations, unauthorized excess expenditures, and nondisclosure of some capital projects. The auditor general stated that the government needed to confront a weak financial system and address extended delays in releasing public financial information.

In April the government introduced the Integrated Financial Management Information System (IFMIS) to help manage government funds more effectively and ensure accountability. The system encountered multiple problems; critics said it was introduced too early, before officials had received the requisite training to operate it. However, in the fall, a visiting International Monetary Fund team stated that the problems were minor, the IFMIS rollout was normal, and the system was functioning correctly.

Although there are no laws providing for access to government information, and access was limited, Web sites of government ministries, parastatal companies, and private organizations provided some information on governmental activities. The Government Gazette and other publications could be requested from the Government Printers' Office. There were also media releases from government ministry information officers. Researchers at institutions such as the Institute of Southern African Studies, NGOs, and the media complained about the lack of access to government information.

On August 19, Lesotho's first female police commissioner, Malejaka Letooane, was sentenced to six months in jail for contempt of court. According to the magistrate's judgment, Letooane had authorized the release of a vehicle from police custody contrary to the order of the magistrate court. Local media reported that the commissioner failed to appear in court when summoned to explain why she released the vehicle. The chief justice granted the commissioner the right to appeal to the High Court. In October the chief justice overturned the sentence and reportedly dismissed the case altogether. However, the case concerning the vehicle release was proceeding in the magistrate court at year's end.

In January the High Court sentenced the principal secretary for the Ministry of Justice and Human Rights, Pontso Lebotsa, to five years in prison or a fine of 10,000 maloti (\$1,250) for contravening government procurement regulations in 2007. The defendant appealed, the Court of Appeal confirmed the High Court judgment, and Lebotsa paid the fine.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

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

The major human rights NGOs were the Transformation Resource Center, LCN, the Development for Peace Education, and the Catholic Church Justice and Peace Commission. According to LCN, there was regular collaboration between the government and NGOs at the ministerial level. NGOs participated regularly and made policy recommendations to the government. These NGOs operated independently, without government restrictions. The government cooperated with international governmental and humanitarian organizations, such as the ICRC. The government did not block release of any reports, and there were no reports that any international body criticized the government during the year.

The independent Office of the Ombudsman exists to protect citizens against infringement of their rights by public and private sector organizations. The office appeared to function without undue governmental or political interference. However, the ombudsman was constrained by a shortage of staff, financing, and equipment. The ombudsman intervened in response to requests for release of unlawfully withheld salaries, reinstatement of employees illegally suspended from their jobs, compensation for persons relocated to new areas in connection with Lesotho Highland Water Project activities, and compensation for and repairs of houses in communities close to large-scale development projects.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and the formal legal code prohibit discrimination based on race, gender, disability, language, or social status. However, the constitution recognizes customary law as a parallel legal system, and under it women remain disadvantaged with regard to property rights, inheritance, contracts, and succession rights.

Women.—The law prohibits rape, including spousal rape, and mandates a minimum sentence of five years' imprisonment, with no option for a fine. Rape was reportedly commonplace; an estimate based on police national crime statistics indicated that in 2008 there were 1,300 reported cases of rape. Courts heard a number of rape and attempted rape cases, several of which resulted in convictions.

Domestic violence against women was widespread. An estimate based on police national crime statistics indicated there were 7,700 reported cases of domestic violence in 2008. Domestic violence and spousal abuse are criminal offenses defined as assault; however, few domestic violence cases were brought to trial. The law does not mandate specific penalties, but an offender can be cautioned and released, given a suspended sentence, fined, or imprisoned. Punishment depends on the severity of the assault, and judges have a wide degree of discretion in sentencing. Violence against women and children was increasingly considered socially unacceptable due to the government advocacy and awareness programs by the Child and Gender Protection Unit (CGPU) of the police, the Department of Social Welfare, and the Ministry of Gender and Youth, Sports, and Recreation. This work was bolstered by local and regional organizations, such as the Women and Law in Southern Africa Trust, the Federation of Women Lawyers, the Lesotho Child Counseling Unit, other NGOs, and broadcast and print media campaigns. Activities include teaching young persons and parents how to report such offenses and how to access victim services.

The legal code does not address prostitution. It was known to occur in urban areas, but its pervasiveness was unclear.

The law does not specifically prohibit sexual harassment, and sexual harassment was known to occur in places of work and to be commonplace elsewhere. The Law Office stated that complaints involving sexual harassment were not often reported through official channels and tended to be handled internally, if reported at all.

The Legal Capacity of Married Persons Act gives couples and individuals the right to decide freely and responsibly the number, spacing, and timing of their children, and to have the information and means to do so free from discrimination, coercion, and violence. Government hospitals and clinics provided equitable access for all, regardless of status, to reproductive health services. This included diagnosis and treatment of sexually transmitted infections, including HIV. In addition, the independent Lesotho Planned Parenthood Association worked in partnership with the government to provide such services.

Women and men are accorded equal rights in civil and criminal courts. The 2006 Legal Capacity of Married Persons Act effectively eliminated *de jure* discrimination against women under formal law except in the area of inheritance, which it does not cover. The act further extends to traditional law and custom and grants women

married under custom equal rights, similar to those married under common law. The previous statutory and customary laws limited the rights of women in areas such as property rights, inheritance, and contracts. Under the dual legal system, women have the legal and customary right to make a will and sue for divorce; however, under traditional (customary) law, a married woman was considered a minor during the lifetime of her husband and could not enter into legally binding contracts without her husband's consent. Since passage of the new law, the rights of women have substantially improved. Married women can obtain loans without the consent of their husbands and enjoy full economic rights under the law. However, the law does not provide for women's inheritance and custody rights. A woman married under customary law has no standing in civil court unless she has her marriage legalized in the civil system. Government officials publicly criticized customary practice regarding marriage.

Women's rights organizations took a leading role in educating women about their rights under traditional and formal law, highlighting the importance of women's participation in the democratic process. The Ministry of Gender, Youth, Sports, and Recreation is charged with promoting the legal rights of women. It supported efforts by women's groups to sensitize society to respect the status and rights of women.

Although polygamy is not recognized by the formal legal code, it was practiced under the traditional legal system by a small minority.

Women were not discriminated against in access to employment, credit, or pay for substantially similar work. Some of the highest paid positions are held by women, including speaker of parliament, cabinet ministers, judges, ambassadors, the commissioner of police, government principal secretaries, the auditor general, certain directors of government ministries, and the chief executive officers of some public enterprises.

Children.—According to the Ministry of Home Affairs, citizenship is derived by birth within the country's territory. According to the Office of the Registrar of Births and Deaths in the district administrator's office, all births are registered by hospitals and local clinics. Children born in private homes are registered at the offices of local chiefs, and the information is then transmitted to the district administrator's office for issuance of birth certificates.

The law provides for the protection of children; however, limited resources hampered the government's ability to enforce the law fully. In addition, the rapid rise in the number of AIDS orphans contributed to child prostitution, child homelessness, child-headed households, and children at risk of exploitation for labor or other purposes. The problem of parents getting sick or dying from AIDS was the most troubling issue facing children in the country.

By law education is universal, although not compulsory, and as of 2006 was tuition-free for grades one through seven. Secondary education is not free, but the government has scholarships for orphaned and vulnerable children. The education bill, making free primary education compulsory for children in grades one through seven, was passed by both houses of Parliament on November 18.

The UN Children's Fund (UNICEF) reported that a substantial number of children did not attend school. The problem was particularly prevalent in rural areas, where there were few schools. Attending school regularly was most difficult for those involved in supporting their families through subsistence activities or those whose families could not afford fees for the purchase of uniforms, books, and school materials. According to UNICEF statistics for 2009, 80 percent of boys and 88 percent of girls attended primary school. More boys failed to attend school than girls due to the tradition of livestock herding by young boys.

Child abuse was a problem, especially for children orphaned by HIV/AIDS. The CGPU indicated that, from January to August, 190 cases of abuse were reported. These cases included 12 child neglect cases, 15 common assault cases, 20 abduction (forced elopement) cases, and 143 cases of sexual assault. The true number of child abuse cases was thought to be much greater. The CGPU was active in fighting abductions for forced marriage.

During the year the news media frequently published reports of violence at traditional initiation schools, attended mainly by rural youth. While the activities of these initiation schools were kept secret, violence against students, teachers, and members of surrounding communities was reported in newspapers, on the Internet, and on the radio.

According to media reports, child prostitution was a problem. Young girls and boys, many of whom were orphans, moved to urban areas to engage in prostitution. A 2001 UNICEF assessment concluded that child prostitution in the country was driven by poverty and undertaken only as a last resort. The study also noted that prostituted children most often acted on their own and were apparently not controlled by organized criminal syndicates or any other third party. However, UNICEF

and the government agreed that while the numbers remained small, the trend toward the commercial sexual exploitation of children in prostitution was a growing problem. There were not enough resources within either the police force or the Department of Social Welfare to address the needs of children likely to engage in prostitution.

There is no legislation specifically addressing child prostitution or child pornography, but the Child Protection Act of 1980 and the Sexual Offenses Act of 2003 can be used to prosecute offenders. The Sexual Offenses Act sets the minimum age for consensual sex at 18.

Familial stress, poverty, the virulent spread of HIV/AIDS, and divorce led to a rise in child homelessness and abandonment. Consequently, according to UNICEF, an estimated 180,000 orphans and vulnerable children were living on the streets. Street children were hampered by lack of access to government services, such as medical care and schooling, and were not informed about their right to receive such services.

The CGPU had branches in all 10 districts, but lack of resources restricted its ability to be effective. The CGPU dealt with sexual and physical abuse, neglected and abandoned children, and protection of the property rights of orphans.

Trafficking in Persons.—The law does not prohibit all forms of trafficking in persons; however, the constitution prohibits slavery and forced labor, and provisions in several other laws could be used to prosecute trafficking-related offenses. Persons were trafficked to, from, through, and within the country.

According to a foreign government's current trafficking in persons report, the country was a source for women and children trafficked for the purposes of sexual exploitation and forced labor. Victims were trafficked internally and to South Africa for domestic work, farm labor, and commercial sexual exploitation. Women and girls were also brought to South Africa for forced marriages in remote villages. Nigerian traffickers acquired Basotho victims for involuntary servitude in households of Nigerian families living in London. Chinese organized crime units acquired victims while transiting Lesotho and trafficked them to Johannesburg, where they "distributed" them locally or trafficked them overseas. Identified traffickers in Lesotho tended to be white, Afrikaans-speaking men and long-distance truck drivers. Women and children attempting to support families impacted by HIV/AIDs and Basotho looking for better employment prospects in South Africa were most likely to be lured by a trafficker's fraudulent offer of a legitimate job.

Trafficking offenders could be prosecuted under relevant provisions of the Child Protection Act of 1980, the Aliens Control Act, and the Sexual Offenses Act of 2003. They could also be prosecuted for kidnapping, which is an offense under common law and the Labor Code Order of 1981, as amended. The government supported women's rights, and the constitution provides for freedom from slavery and forced labor.

The Ministry of Home Affairs and Public Safety and the CGPU are responsible for monitoring trafficking in persons. Despite the lack of legislation, the Ministry of Health and Social Welfare, some NGOs, immigration officers, and police offered assistance during the year to suspected victims of trafficking.

The Ministry of Health and Social Welfare offered assistance to victims of abuse, orphaned and vulnerable children, and suspected or identified trafficking victims. Domestic and international NGOs provided some orphanages with supplies and funds to build new shelters or expand existing shelters, which could also be used to protect and assist child victims of trafficking.

On July 2, the government established an committee, led by the Ministry of Home Affairs and Public Safety, to prepare draft antitrafficking legislation. The committee included representatives from the Ministry of Foreign Affairs; the Ministry of Gender and Youth, Sports, and Recreation; the police Child and Gender Protection Unit; and local NGOs such as Women and Law in Southern Africa, among others.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The constitution and law prohibit discrimination against persons with physical and mental disabilities in employment, education, access to health care, or provision of other state services. The government enforced these laws within its limited ability. Although societal discrimination was common, the tradition of hiding children with disabilities from the public was no longer commonly accepted. The Association of the Disabled actively promoted the rights and needs of persons with disabilities.

Laws and regulations stipulate that persons with disabilities should have access to public buildings, and such buildings completed after 1995 generally complied with the law.

Election law provides for assisted voting for persons with disabilities, which is respected in practice. They are allowed to have anyone of their choice assist them with voting, including the presiding officer at a polling station; there should also be a third person to verify that the voter's choices are respected.

The Ministry of Health and Social Welfare is responsible for protecting the rights of persons with disabilities. In partnership with the NGO Skillshare International, the government provided leadership training workshops for persons with disabilities and community-based rehabilitation (training community members to provide services to persons with disabilities). The community-based training also trains teachers to work with students with disabilities. The Skillshare-government partnership also supported 20 income-generating projects with a minimum starting capital of 10,000 maloti (\$1,250). There was also advocacy and awareness training about the rights of persons with disabilities. These events usually centered on international events, such as Sign Language Day, White Cane Day, and Braille Day. The partnership also provided aids such as prescription eyeglasses, wheelchairs, and canes.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The law does not address sexual orientation, and general discrimination against gay persons was not present in the workplace, housing, statelessness, or access to health care or education. Homosexual conduct is taboo in society, and is not openly discussed. There were no reports of violence against gay persons during the year.

Other Societal Violence or Discrimination.—There continued to be media reports that children orphaned by AIDS, persons with AIDS, and their immediate families were stigmatized.

The law prohibits discrimination in the workplace on the basis of HIV/AIDS status.

In 2006 the parliament amended the labor code to include an HIV/AIDS workplace policy. Each government ministry or department provided subsidized medicine and food to its employees with HIV/AIDS, and such assistance was available to all citizens at subsidized prices at all government hospitals.

LDF policy states that if a soldier is found to be HIV positive after induction, the person is not retired or separated. The soldier is provided counseling and testing, and duties are adapted as appropriate.

Section 7. Worker Rights

a. The Right of Association.—Under the law workers have the right to join and form trade unions without prior authorization or excessive bureaucratic requirements. Workers exercised this right in practice. All trade unions must register with the registrar of trade unions. The law prohibits civil servants and police from joining or forming unions but allows them to form staff associations; both police and civil servants have established such associations. The law allows unions to conduct their activities without interference, and the government generally protected this right. The law provides for a limited right to strike. In the private sector, the labor code requires a series of procedures to be followed by workers and employers before a strike is authorized. However, civil servants are not allowed to strike and therefore all public sector industrial actions are unauthorized. Both locally and foreign-owned businesses still lacked a full understanding of the labor code's provisions regarding the right to form labor unions.

b. The Right to Organize and Bargain Collectively.—The law protects collective bargaining and it is freely practiced.

There are no restrictions on collective bargaining; unions are allowed to bargain for wages above the minimum wage set by the Wage Advisory Board. However, a majority of employers will bargain only with unions that represent at least 50 percent of their staff. The Labor Commissioner's Office reported that the unions were too weak to bargain effectively. Government approval was not required for collective agreements to be valid.

The law prohibits antiunion discrimination and other employer interference in union functions, and the government generally enforced this prohibition. Textile and apparel unions claimed that members are sometimes treated unfairly to compel them to leave. The Ministry of Labor and Employment claimed workers often believed they were dismissed for union involvement, but investigation revealed that often they were dismissed on grounds other than for union activities.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits all forms of forced or compulsory labor; however, there were reports that men and women were forced to work in domestic work, farm labor, and commercial sexual exploitation, according to the trafficking in persons report mentioned in the trafficking subsection.

Sources within the Ministry of Labor and Employment's inspectorate reported that such practices occurred in private dwelling houses and on small farms or cattle posts which are outside the scope of the labor code, making them impossible to inspect.

Children often worked in herding, street vending, car washing, and domestic servitude, and sometimes as sex workers.

d. Prohibition of Child Labor and Minimum Age for Employment.—There are laws to protect children from exploitation in the workplace; however, these laws only apply to labor in the formal economy. The labor code contains prohibitions against the employment of children and young persons in commercial, industrial, or other nonfamily enterprises involving hazardous or dangerous working conditions. The government and its agents generally enforced these statutes. However, officials in the Ministry of Labor and Employment's inspectorate stated that child labor is a problem in the agricultural and other informal sectors, which child labor laws do not cover. The inspectorate has no mandate to inspect informal establishments, which are outside the scope of the labor code.

The labor code defines a "child" as a person under the age of 15, and according to the Bureau of Statistics (BOS) the legal minimum age for employment in commercial or industrial enterprises is 15 years, or 18 years for hazardous employment. Although the labor code prohibits child labor in the formal sector, the high unemployment rate, which the BOS estimated at 22.7 percent, increasing levels of poverty, and the high prevalence of HIV/AIDS (23 percent) all contribute towards children working at an early age in order to support themselves and their families. The majority of trade unions estimated unemployment to be between 40 and 50 percent. They attributed that to the loss of jobs in the textile and garments sector, which is the largest formal employer after the government.

The 2008 Integrated Labor Force Survey preliminary report published by the BOS stated that 3 percent of children aged 6-14 years were participating in economic activities, i.e., being paid in cash or in kind for their labor; this statistic did not include children aiding their families or others without such compensation. Two of every three of these children were engaged in subsistence farming, while the rest were engaged in other economic activities, mainly in private households. Child labor was higher among male children (86.6 percent of child workers) than their female counterparts (13.4 percent). This was true regardless of the type of economic activity considered. In traditional rural society, rigorous and occasionally dangerous working conditions for young herd boys were considered a prerequisite to manhood, essential to the livelihood of families, and a fundamental feature of local culture beyond the reach of labor laws.

According to the 2000 and 2004 reports produced by the Ministry of Labor and Employment in collaboration with UNICEF and other partners, the worst forms of child labor occur in herding, street work, domestic work, and sex work. Most jobs performed by children were often gender-specific: boys were livestock herders, carried packages for shoppers, washed cars, and collected fares for minibus taxis; girls were domestic servants; teenage girls (and a few boys) were involved in prostitution; and both boys and girls worked as street vendors.

Unlike in the past, there were no reports that young children, mostly orphaned or deserted, were forced to work very long hours at cattle posts and were poorly fed.

The labor survey indicates that children working in the streets typically start at the age of 12. The most common work they do is selling fruits and vegetables. Children work more than eight hours a day, which is the maximum stipulated in the law for an adult. They also work without breaks six or seven days a week. Domestic workers also start as young as 12 years.

The Ministry of Labor and Employment and the CGPU are responsible for investigating child labor. However, the Labor Commissioner's Office indicated that it is difficult to track cases of child labor because the country does not have any program or strategy specific to child labor.

The Labor Commissioner's Office indicated that the Ministry of Labor and Employment, the CGPU, and the Ministry of Gender and Youth, Sports, and Recreation generally disseminated information on prevention of child labor as part of their other programs.

e. Acceptable Conditions of Work.—There is a sector-specific national minimum wage and a general minimum wage.

The general minimum monthly wage varies from 812 to 844 maloti (\$101 to \$105). Examples of minimum monthly wages for other job categories include textile worker, 741 maloti (\$93); construction worker, 990 maloti (\$124); security guard, 982 maloti (\$123); food service worker, 946 maloti (\$118); and domestic worker, 304 maloti (\$38).

Minimum wages are updated every October 1, through the amended labor code minimum wage schedule. The national minimum wage did not provide a decent standard of living for a worker and family. In September textile workers asked the parliamentary portfolio committee (the committee responsible for labor issues) to request that parliament urgently intervene and help improve their “miserable working conditions and meager wages,” stating that the minimum wage should be increased to 1,500 maloti (\$188) per month.

The Wage Advisory Board determines the minimum wage for different occupation groups annually. The board includes representatives from the government, trade unions, and the Employers Association. The minimum wage is negotiated, taking into consideration the economic situation, exchange rate, trade matters, and inflation for the year.

Many locally owned businesses did not keep records of employees’ salaries to facilitate labor inspections as required by law. Many wage earners supplemented their income through subsistence agriculture or remittances from relatives in South Africa, although these remittances had declined.

The law stipulates standards for hours of work, including a maximum 45-hour work week, a weekly rest period of at least 24 hours, a daily minimum rest period of one hour, at least 12 days of paid leave per year, paid sick leave, and public holidays.

Required overtime was legal as long as overtime wages were paid for work in excess of the standard 45-hour workweek. The maximum overtime allowed was 11 hours per week; however, there were exemptions under special circumstances. Labor laws do not, however, cover the agricultural and other informal sectors, where most workers are employed. The Ministry of Labor and Employment’s inspectorate stated that employers did not always enforce these standards. According to the labor commissioner, employers in the retail sector were the worst violators. The most common allegations involved ignoring labor regulations mandating ordinary hours of work, overtime, and public holidays.

The law requires employers to provide adequate light, ventilation, and sanitary facilities for employees and to install and maintain machinery in a manner to minimize injury; larger employers generally followed these regulations. However, health and safety violations were common in smaller establishments and some factories. For instance, textile workers from five factories petitioned the parliament in September for urgent intervention to improve their “miserable working conditions” in the factories. Among their concerns was an allegation that factories did not provide face masks, which exposed them to a health risk.

The labor code requires employers to appoint a registered health and safety officer to supervise and promote safe conduct at work. They are also required to have first aid kits and safety equipment and to provide protective clothing. According to health and safety inspectors in the Ministry of Labor and Employment, most employers failed to appoint or train registered health and safety officers. Also, the law does not specify the contents of first aid kits. With the exception of the mining establishments, employers’ compliance on health and safety was generally low. In addition, health and safety inspectors stated that employers in the retail sector were not in full compliance with health and safety standards, as they had no registered health or safety officers, complete first aid kits, or protective clothing.

The labor code empowers the Ministry of Labor and Employment to issue regulations on work safety, and the ministry did so. The labor code does not explicitly protect the right of workers to remove themselves from hazardous situations without prejudice to employment. However, sections of the code on safety in the workplace and dismissal imply that such a dismissal would be illegal. The law also provides for a compensation system for industrial injuries and diseases related to employment.

The commissioner of labor is charged with investigating allegations of labor law violations. Labor inspectors generally conducted unannounced inspections of a random sample of workplaces on a weekly basis. Inspections in mountain districts, however, were done on a quarterly basis.

The government and private sector implemented voluntary HIV/AIDS counseling and testing programs in line with Labor Code Act Number 5, which strengthened existing programs. The Labor Code Amendment Act of 2006 provides for the further development of HIV/AIDS policies in the workplace. The Ministry of Labor and Employment’s HIV/AIDS Support Group was responsible for the rollout of the Labor Code Amendment Act countrywide and the translation of the act into Sesotho. The support group also provided testing and counseling services to employees in the private sector living with HIV/AIDS through funding support from the National Aids Commission. The target sector was transportation.

Working conditions for foreign or migrant workers were similar to those of residents.

LIBERIA

Liberia is a constitutional republic with a population of approximately 3.5 million. In 2005 Ellen Johnson Sirleaf won multiparty presidential elections, which domestic and international observers considered generally free and fair. Since the 2003 signing of the Comprehensive Peace Agreement, which ended the 1989-2003 civil war, the UN Mission in Liberia (UNMIL) peacekeepers and UN international police (UNPOL) have had primary responsibility for maintaining security. Efforts to select and train personnel for the Armed Forces of Liberia continued. While civilian authorities generally maintained effective control of the security forces, there were instances in which elements of the security forces acted independently.

Mob violence and land disputes resulted in deaths, and ritualistic killings occurred. Police abused, harassed, and intimidated detainees and citizens. Prison conditions remained harsh, and arbitrary arrest and detention occurred. Judicial inefficiency and corruption contributed to lengthy pretrial detention and denial of due process. Some incidents of trial by ordeal were reported. The government restricted the press. Corruption and impunity were endemic through all levels of government. Violence against women, including rape, was a problem, and domestic violence was widespread. Some ethnic groups continued to practice female genital mutilation (FGM). Child abuse and sexual violence against children were problems, and a few cases of human trafficking were reported. Racial and ethnic discrimination continued, and instances of child labor were reported, especially in the informal sector.

During the year the Truth and Reconciliation Commission (TRC) completed public hearings, solicited further input from county representatives and nongovernmental organizations (NGOs), and publicly released its Final Report to the government on the 1989-2003 civil war. Volume I, the Preliminary Findings, included a list of "most significant" warring factions and presented key recommendations for the future.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed any politically motivated killings; however, on June 29, Senator Sumo Kupee (Lofa County) was accused of the ritualistic killing of a boy in Bong County. The Ministry of Justice did not prosecute the senator, citing lack of evidence, and Kupee remained free at year's end.

On July 14, eight plantation police officers of the Liberian Agricultural Company beat a man to death. The officers were arrested and awaiting trial at year's end.

On February 5, Senator Roland Kaine was acquitted due to insufficient evidence of ordering the June 2008 killings of 21 youths in Grand Bassa County in connection with a land dispute. Of the 15 others accused in the incident, eight were found guilty and six were acquitted. Critics charged that the acquittals were a result of a weak judiciary and cited poor case preparation by the prosecution.

The investigation into the August 2008 incident in which Special Security Service agents fired on alleged thieves, resulting in one death, was closed, and no action was taken against the perpetrators.

Land disputes—exacerbated by pressure from returning landowners and refugees as well as unclear land titles—resulted in numerous deaths during the year.

There were reports of ritualistic killings, in which body parts used in indigenous rituals were removed from the victim. The number of such killings was difficult to ascertain since police sometimes described such deaths as homicides, accidents, or suicides, even when body parts were removed. In January women in Bong County complained to President Sirleaf that ritualistic killings were on the rise, and on July 13, a high school girl was found dead in Maryland County with body parts missing. The government treated such killings as homicides and investigated them accordingly, although there were no prosecutions during the year. Protests against such killings occurred and sometimes resulted in riots, injuries, and deaths.

There were continuing reports of mob violence. On June 12, a mob burned down a police station in Harper, resulting in the death of a detainee. In August angry mobs in Monrovia beat to death two suspected criminals.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution prohibits such practices, but there were reports that police officers

and security officials employed them. Police sometimes abused, harassed, and intimidated persons, particularly during attempts to extort money on the streets. Several cases of reported police brutality were referred to the attention of police commanders. Fourteen police officers were suspended for misconduct in May, and five officers were dismissed in August for unethical behavior.

After a near collision on January 18 between the vehicles of former government official Prince Toe and House Speaker Alex Tyler, Tyler's bodyguards allegedly followed Toe to his church, pulled him out of the building, beat him in front of the speaker, and stole two kilograms of gold he had in his possession; it was unclear why Toe was taking two kilograms of gold with him to church. Toe claimed police briefly detained him after the beating until a local clergyman intervened for his release. On January 21, the Monrovia Magisterial Court issued a writ of arrest against Speaker Tyler on charges of aggravated assault and criminal solicitation; however, the arrest warrant was withdrawn for "procedural errors" after the justice minister intervened. No action had been taken against Tyler by year's end.

LNP officers abducted and beat an NGO employee (see section 5).

Several incidents involving the alleged abuse and mistreatment by high-level officials in 2008 came to light during the year. In June 2008 Senator Nathaniel Innis allegedly beat a young woman for making noise in his neighborhood, and in December 2008 Deputy Minister of Public Works Roderick Smith allegedly ordered the beating of General Auditing Commission auditor Winsley Nanka after Nanka demanded more documents to verify earlier documents submitted by the ministry.

During the year UNMIL completed its investigation into the 2007 beating by LNP officers and UNMIL peacekeepers of students and journalists. No action was taken against police or peacekeepers.

The practice of trial-by-ordeal, which involves actions such as the placement of a heated metal object on a suspect's body or the insertion of an extremity into hot oil to determine whether the defendant is telling the truth, continued in rural areas. Despite President Sirleaf's 2007 vow to punish perpetrators of trial-by-ordeal, no perpetrators were punished during the year.

Mob violence and vigilantism—which resulted in part from the public's lack of confidence in the police and judicial system—resulted in injuries.

During the year the UN Office of Internal Oversight Services and the UNMIL Conduct and Discipline Unit investigated two reports of sexual exploitation and abuse by UNMIL staff. One case remained under investigation at year's end; the second ended with the suicide of the accused perpetrator.

Prison and Detention Center Conditions.—Conditions in the country's 14 prison facilities were harsh and in some cases life threatening. Women and juveniles were subject to abuse by guards and other inmates. Half the country's 1,420 prisoners were held at Monrovia Central Prison, which operated at four times its capacity due to the large number of pretrial detainees. The prison population included 14 women and 64 juveniles. Prisons remained understaffed.

Several mass escapes from prison occurred during the year, including the January 16 escape of prisoners from Sanniquelle Prison, the April escape of 40 prisoners from the Palace of Corrections in Zwedru, and the May escape of numerous prisoners from Monrovia Central Prison. Prison officials blamed collusion by prison guards, and an investigation was ongoing at year's end.

During the year some counties without adequate prison facilities transferred their prisoners to Monrovia. The government relied on the World Food Program and various NGOs to provide food to the prisons. The UN and NGOs continued to provide medical services. During the year both the government and international partners continued renovations at several county prisons. Men and women were held together in some counties or cities with only one prison cell. In many counties juveniles and adults were held together, and pretrial detainees were generally held with convicted prisoners.

The government permitted the independent monitoring of prison conditions by local human rights groups, international NGOs, the UN, and the media. Some human rights groups, including national and international organizations, made regular visits to detainees held in police headquarters and to prisoners in Monrovia Central Prison. The permanent representative of the UN Security Council toured Monrovia Central Prison during the year, and in October the International Committee of the Red Cross (ICRC) toured all 14 prisons in the country.

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

Role of the Police and Security Apparatus.—The Ministry of Justice has responsibility for enforcing laws and maintaining order within the country and oversees the LNP and the National Bureau of Investigation. An estimated 10,000 UNMIL peace-

keepers and 1,300 UNPOL officers had primary responsibility for maintaining security. Approximately 500 UNPOL officers and 850 officers in the UN Formed Police Units (armed foreign police detachments assigned to UNMIL) assisted with monitoring, advising, and training the LNP. Since 2004 a total of 3,800 LNP officers, including 300 during the year, have been recruited, screened, trained, and deployed—primarily to Monrovia; 1,200 of those officers had deployed to the counties by year's end. The LNP operated independently and retained arrest authority; however, the Special Security Service, which is responsible for the security of presidential and senior government officials, UNPOL, and armed UN Formed Police Units, accompanied LNP officers in joint patrols around Monrovia. The LNP Women's and Children's Protection Section (WCPS) continued to establish offices outside Monrovia during the year.

Members of the Emergency Response Unit (ERU), which was established in 2008, received specialized training and were armed, unlike most other LNP patrol officers. The ERU was charged with conducting special police operations in antiterrorism, hostage rescue, internal security, tactical anticrime, and search and rescue. The ERU increased its membership from 139 officers in 2008 to 288 by year's end.

LNP officers were poorly equipped, ineffective, and slow to respond to criminal activity, which resulted in an increase in armed robberies during the year. LNP salaries were low and not always paid on time, contributing to widespread corruption. Police had limited transportation, logistics, communication, and forensic capabilities and did not have the capacity to adequately investigate many crimes, including murders.

During the year the LNP investigated reports of police misconduct or corruption, and authorities suspended or dismissed several LNP officers. For example, in August five LNP officers were dismissed for unethical behavior. On September 3, the chief of patrol was indicted for looting the house of a private prosecutor who had filed a civil suit against him earlier.

No action was taken against the deputy commissioner for criminal investigations or the chief of narcotics, both of whom were indicted by a grand jury in December 2008 for theft and making false statements. The chief witness against the deputy commissioner for criminal investigations was deported on January 9 on national security grounds; observers attributed the deportation to government efforts to protect the deputy commissioner.

Arrest Procedures and Treatment While in Detention.—The constitution requires warrants to make arrests and provides that detainees either be charged or released within 48 hours; however, warrants were not always based on sufficient evidence, and detainees, particularly those without the means to hire a lawyer, often were held for more than 48 hours without charge. Detainees generally were informed of the charges against them upon arrest. Detainees have the right to prompt determination of the legality of their arrest, but in practice, this right is ignored. The law provides for bail for all offenses except rape, murder, armed robbery, and treason. Detainees have the right to prompt access to counsel, visits from family members, and if indigent, to an attorney provided by the state, but the government did not protect such rights for all detainees.

Police arbitrarily arrested demonstrators (see section 2.b.).

LNP officers attempted to arbitrarily arrest, and subsequently abducted and beat a staff member of an international NGO (see section 5).

Although the law provides for the right of a person who is charged to receive an expeditious trial, lengthy pretrial and prearrest detention remained serious problems. An estimated 85 percent of prisoners were pretrial detainees, 600 of whom were released during the year as a result of the Fast Track Court to reduce prison overcrowding. However, with the incarceration of new detainees, prisons remained overcrowded. In some cases the length of pretrial detention exceeded the maximum length of sentence that could be imposed for the crime. Trial delays were caused by judicial inefficiency and corruption, as well as lack of transport, court facilities, attorneys, and qualified judges.

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary; however, the judicial system was corrupt and largely nonfunctional (see section 4). Judges were subject to political, social, familial, and financial pressures. By law magistrates must be lawyers; however, most were not. A partial strike by associate justices of the Supreme Court conducted over three months exacerbated judicial inefficiency.

The judiciary is divided into four levels, including justice-of-the-peace courts, magistrate courts, circuit and specialty courts, and the Supreme Court. In 2005 the Supreme Court ordered the closure of all justice-of-the-peace courts; however, some still operated during the year since no replacement courts had been established. The

Supreme Court appointed judges to counties outside of Montserrado County, where the capital is located, but many judges and magistrates continued to abandon their posts, preferring to remain in Monrovia. In 2008 the Fast Track Court was established to relieve prison overcrowding, and magistrates rotated weekly to serve on this court. The newly formed military, which adopted a Uniform Code of Military Justice, did not have a functioning court system.

On February 24, a special court for rape and other forms of sexual violence opened in Monrovia (see section 6).

Uneven application of the law and the unequal distribution of personnel and resources remained problems throughout the judicial system. Some judges were unable to hold court due to lack of security, supplies, equipment, or a courthouse. There was no effective system to provide public defenders in rural areas; however, government officials worked with international aid agencies to set up functional public defenders, raising the national total to approximately 17 qualified prosecutors and 13 public defenders; four of the 13 public defenders were responsible for cases in Montserrado County, where one-third of the population resided.

Traditional forms of justice administered by clan chieftains and recognized by the Ministry of Internal Affairs remained prevalent in some localities. Chiefs, assisted by a jury of elders, dealt with village problems and conflicts. No written records were kept in traditional courts, and "trial-by-ordeal" was sometimes used to establish guilt.

Trial Procedures.—Trials are public, and juries are used in circuit court trials but not at the magistrate level. Under the constitution, defendants have the right to be present, to consult with an attorney in a timely manner, and to have access to government-held evidence relevant to their case; however, these rights were not always observed. Defendants enjoy a presumption of innocence and have the right to an attorney, to confront or question witnesses against them, present evidence and witnesses on their behalf, and to appeal adverse decisions, but many of these protections were not available to defendants who could not pay bribes or afford an attorney. Some local NGOs continued to provide legal services to indigents and others who had no representation. There continued to be long delays in deciding cases.

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

Civil Judicial Procedures and Remedies.—There is an independent civil law court in Monrovia, but circuit courts in each county function as both criminal and civil courts. Specialty courts, such as the tax court, probate court, and labor court, also address civil matters. NGOs and the government continued to establish mediation centers that worked on reducing court caseloads. There is no specialized court to address lawsuits seeking damages for human rights violations. As with criminal courts, specialized courts were inefficient and corrupt.

Property Restitution.—Despite a 2007 ruling that the disputed land in Nimba County currently occupied by Gio and Mano persons should revert to the original Mandingo owners, no action had been taken by year's end to assist the Mandingos in removing squatters. Even persons who could afford to take land disputes to a court trial had difficulty removing squatters from their property since judicial enforcement was weak; efforts to make other acceptable land available were ongoing at year's end.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of speech and of the press, and the government generally respected these rights in practice; however, a few journalists were arrested for criticizing the president, and there were some reports of security officials harassing journalists during the year.

Individuals could criticize the government publicly or privately without reprisal.

During the year the government closed two newspapers. In February authorities closed the New Broom newspaper because it had not registered with the Ministry of Information. After discussions with the ministry, the newspaper was allowed to resume publishing, but was closed again in August for again failing to properly register. In August the ministry also closed the Bi-Lingual newspaper for improper registration. Critics charged that the government rarely enforced registration laws unless a media outlet criticized the government.

In September President Sirleaf sued the New Broom for 357.5 million Liberian dollars (\$7.28 million) for reporting that she had accepted a bribe of 143 million Liberian dollars (\$2.91 million). The president also called for the closing of the news-

paper for “deliberately and blatantly” violating the public trust. The case was pending at year’s end.

In December security forces arrested the publisher and printer of *The Plain Truth* newspaper and charged them with sedition and libel against the president; in a December 9 article the newspaper claimed that the government was supplying arms to Guinean rebels, a charge the government characterized as “beyond human imagination.”

The independent media was active and expressed a wide variety of views without restriction; however, journalists commonly accepted payments to publish articles, and did not always fact-check their sources.

In Monrovia there were approximately a dozen newspapers that published during the year with varying degrees of regularity; six were independent dailies, and five were independent biweekly newspapers. The government published the *New Liberian* newspaper. Due to the price of newspapers and transportation, the 55-75 percent illiteracy rate, and road conditions elsewhere in the country, newspaper distribution generally was limited to the Monrovia region.

Unlike in the previous year, there were no reports that individuals had been bribed to kill newspaper publishers.

During the year the prosecution closed the investigation into the 2007 security force beatings of journalists at the University of Liberia; no action was taken against the perpetrators.

Radio remained the primary means of mass communication, and stations operated without government restrictions. UNMIL Radio and Star Radio provided nationwide coverage. In addition there were 13 independent radio stations that regularly broadcast in Monrovia and reached neighboring counties, including the government station LBS. There were approximately 24 community radio stations that provided a combination of local programs and relay of programs in Monrovia.

On January 12, at the end of a soccer match, police stopped a Radio Star sports reporter, who had his press credentials in his pocket instead of on his chest. Police subsequently pushed and kicked the reporter. When another reporter rushed to the scene and began taking pictures of the incident, police seized and damaged the camera. The police officer later apologized.

During a May 13 interview, the senate president pro tempore objected to questions asked by Truth Radio journalist Solomon Ware, charging that the questions were offensive. When Ware repeated questions about prematurely adjourning a legislative session against the disapproval of the Senate, the president pro tempore struck Ware with the back of his hand.

There were three local television stations; however, television was limited to those who could afford to purchase sets, generators, and fuel to provide electricity. For those persons and businesses with satellite capability, CNN, BBC, Skynews, Al Jazeera and SABC Africa generally were available.

Internet Freedom.—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Due to high cost and lack of infrastructure, less than 1 percent of the country’s inhabitants used the Internet, according to International Telecommunication Union statistics for 2008. High illiteracy also limited public exposure to the Internet.

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

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The constitution provides for the right of peaceful assembly; however, LNP officers forcibly dispersed demonstrators during the year, resulting in injuries.

On March 2, police forcibly dispersed demonstrators in Gbarnga and arrested several persons. The demonstrators, who were protesting an alleged ritualistic killing, had burned down a police station. Although there were no civilian injuries, several UNMIL peacekeepers were injured. Several demonstrators were on trial at year’s end for destruction of property.

Freedom of Association.—The constitution provides for the right of association, and the government generally respected this right in practice.

c. Freedom of Religion.—The constitution provides for freedom of religion, and the government generally respected this right in practice. Christianity was the dominant religion, and most meetings, including official government meetings, began and ended with prayers; however, both Christian and Muslim prayers were sometimes included. Islamic leaders complained of discrimination against Muslims.

On August 29, members of the Presidential Task Force to clean up Monrovia used batons to forcibly disperse Muslim vendors who had set up food stalls near the Ben-

son Street Mosque in celebration of Ramadan. On August 30, President Sirleaf apologized for the incident and disbanded the task force. Sirleaf and the acting mayor of Monrovia, who also headed the task force, visited the mosque on September 1 and met with Muslim leaders.

Societal Abuses and Discrimination.—Despite frequent interaction between the Christian majority and Muslim minority, some tension existed. The Inter-Religious Council promoted dialogue among various religious groups.

There were reports of ritualistic killings—the act of killing for body parts for use in traditional rituals—throughout the country (see section 1.a.).

There was no significant Jewish community in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. However, LNP and Bureau of Immigration officers occasionally subjected travelers to arbitrary searches and petty extortion at checkpoints.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

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

Internally Displaced Persons (IDPs).—The program for permanent resettlement of internally displaced persons was officially closed in October 2008, and there were no reports of IDPs during the year.

Protection of Refugees.—The country is a party to the 1951 Convention Relating to the Status of Refugees, its 1967 Protocol, and the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. The government has established a system for providing protection to refugees and granted refugee status and asylum during the year. In practice, the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened. The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention or the 1967 Protocol. The government generally cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. During the year the government assisted 405 refugees from Sierra Leone and provided them access to naturalization.

Between April 2008 and March 2009 the UNHCR assisted in the voluntary repatriation of 10,046 Liberian refugees from west African countries. Since 2004 a total of 168,792 Liberians have returned out of a total registered refugee population of 233,264.

Land disputes between returning land owners who fled the war and IDPs who took over their land as well as between villages trying to accommodate returning refugees resulted in violence and death during the year.

The trial over the May 2008 killing of two persons in a land dispute between the residents of Wetchuken Village and Rock Town was transferred to Zwedru and resulted in the conviction of seven men, who were serving life sentences at year's end.

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

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

Elections and Political Participation.—In 2005 Ellen Johnson Sirleaf won the national presidential elections with 59.4 percent of the vote in a runoff election; voters also selected 30 senators and 64 representatives.

The state is highly centralized. The law provides that the head of state appoint county superintendents. Local governments had no independent revenue base and relied entirely on the central government for funds. As a result there was very limited government functioning outside of Monrovia. Local officials were provided funds through the County Development Fund but in many cases these were misused.

During the year the National Elections Commission (NEC) revoked the licenses of 10 political parties for violating the constitution and election laws; all 10 had failed to maintain headquarters in Monrovia and had not presented their financial statements to the NEC. The leaders of most of the affected parties, known locally

as “briefcase” parties, lived abroad and only returned to the country prior to elections. Twenty registered parties remained, although only 10 of them were represented in the legislature.

There were six female ministers, 12 female deputy ministers, five women in the Senate, nine women in the House of Representatives, five female county superintendents, and several female mayors, including the acting mayor of Monrovia. There were two female Supreme Court associate justices. Women constituted 33 percent of local government officials and 31 percent of senior and junior ministers.

On January 29, the nine female members of the House filed a formal motion of discrimination against Speaker J. Alex Tyler for sidelining them in his recent reshuffle of committee heads. Male House members responded by assigning the issue to the dormant and ineffective Committee on Claims and Petitions. Female legislators then demanded an open debate in plenary, but the majority of men voted for procedural motions to prevent such a debate. The women, who vowed not to cooperate with the men in future House actions, continued to push for a “fairness bill” in the legislature, which would require at least 30 percent of the candidates running for legislative seats to be women.

Muslims occupied senior government positions, including one minister, one deputy minister, three senators, six representatives, one Supreme Court justice, and one county superintendent.

Section 4. Official Corruption and Government Transparency

The 2008 Anticorruption Act, which established the Liberian Anti-Corruption Commission (LACC), does not provide criminal penalties for corruption, which remained systemic throughout the government. Official corruption was exacerbated by low pay levels for the civil service, lack of job training, and a culture of impunity. On October 8, the auditor-general said that boards of directors of public corporations in the country were being used as “cover-ups” to justify illegal transactions. The LACC and the Ministry of Justice are responsible for exposing and combating official corruption, but it was unclear whether the commission or the ministry had responsibility for prosecuting corruption cases. The LACC, which had a minimal budget and insufficient staff, had completed no corruption investigations by year’s end.

Judges regularly received bribes or other illegal gifts from damages that they awarded in civil cases. Judges sometimes requested bribes to try cases, release detainees from prison, or find defendants not guilty in criminal cases. Defense attorneys and prosecutors sometimes suggested that defendants pay a gratuity to appease or secure favorable rulings from judges, prosecutors, jurors, and police officers.

Despite her strong emphasis on decentralization, President Sirleaf urged the legislature during the year to withdraw from allocating and implementing local development projects financed by County Development Funds; such funding was intended to support local projects to reduce poverty. The move to reclaim centralized executive administration of local development projects was widely seen as a result of inadequate management at the local level, which often funneled development funds to support political interests rather than to reduce poverty.

The government dismissed or suspended a number of officials for corruption. For example, on September 5, President Sirleaf dismissed the managing director of the state-owned Liberia Petroleum Refining Corporation (LPRC) after an investigation revealed alleged irregularities in awarding a no-bid 1.75 billion Liberian dollars (\$36 million) concession.

In October President Sirleaf dismissed the assistant superintendent for development in Grand Cape Mount County, for his alleged responsibility in the disappearance of more than 4.37 million Liberian dollars (\$90,000) from the Grand Cape Mount County Development Fund. An investigation was ongoing at year’s end.

On April 30, a unanimous jury found former transitional government chairman Gyude Bryant, Representative Edwin Snowe, Senator Richard Devine, and two other officials innocent of economic sabotage and theft. Gyude Bryant was accused of spending almost 49 million Liberian dollars (\$1 million) of LPRC funds illegally. To date, the government has been unsuccessful in every corruption case it has brought against present and former officials.

Eleven corruption cases remained pending at year’s end, including the 2007 embezzlement cases of David Zarlee, J.D. Slinger, and former finance minister Kamara.

During the year the government continued to take steps to improve transparency. In December the president signed an executive order protecting whistleblowers, which provides that those who successfully report on corruption receive 5 percent of the amount retrieved.

The legislature passed a Public Financial Management Act, designed to reduce financial mismanagement and lack of accountability within government agencies. The Ministry of Finance published the national budget and quarterly financial results, and state-owned enterprises published financial statements. International financial controllers, placed in key ministries and state-owned enterprises under the Governance and Economic Management Assistance Program, which began to phase out operations in September. Controllers helped improve financial management, purchasing, and contracting practices, and instituted financial controls that increased government revenues and helped to curb corrupt practices. However, government ministries and agencies did not always adhere to public procurement regulations, particularly with natural resource concessions.

The law requires all elected officials to publicly disclose their finances, and President Sirleaf began an enforcement campaign during the year and disclosed her own finances; however, few officials followed her lead.

The law provides for “no limitation on the public right to be informed about the government and its functionaries,” but little government information was available, and there were few procedures for obtaining it.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

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

There were three coalitions of human rights groups: the National Human Rights Center of Liberia with nine member organizations; the Network of Human Rights Chapters with eight groups; and the Human Rights and Protection Forum, an umbrella organization of 70 to 80 groups. Approximately 40 groups, including members of the three coalitions, formed a civil society collective called the National Civil Society Organization. These coalitions sought to increase public discussion of human rights problems. Civil society NGOs continued to develop.

During the year the government worked to facilitate the free and safe passage of relief supplies by international NGOs and permitted visits by a UN panel of experts, the ICRC, and various UN agencies.

The nine commissioners appointed in 2007 by the president to the government’s Independent National Human Rights Commission (INHRC) still awaited confirmation by the legislature at year’s end.

Security officials abused NGO personnel. For example, on April 26, in Nimba County, two LNP officers and several private security agents attempted to arrest a staff member of the international NGO EQUIP-Liberia over a land dispute. The staff member was later abducted, beaten, and doused with pepper-water in his eyes. In August he was abducted again, held for 18 hours, and released. No arrests had been made by year’s end, although a Ministry of Justice investigation was pending.

The case against former president Charles Taylor, whom the government in 2006 transferred to the Special Court for Sierra Leone in The Hague to face war crimes charges, was ongoing at year’s end.

The TRC publicly released Volume I of its Final Reports on events in the country between 1979 and 2003. The Commission found that all warring factions used child soldiers, kept sexual slaves, and committed other violations of domestic human rights law as well as international criminal, human rights, and humanitarian law, including war crimes violations. The TRC determined that prosecutions were necessary to promote justice and reconciliation and to fight impunity, but maintained it would not recommend anyone for prosecution who truthfully admitted all wrong doings under oath. The TRC deemed reparations at the individual and community levels were needed to restore human dignity and declared a general amnesty for all children and those who committed lesser crimes.

TRC commissioners initially withheld the names of perpetrators recommended for prosecution because they feared for the safety of TRC staff and their families. However, the report published a list of warring factions and divided them into “significant Violator Groups” and “Less Significant Violator Groups” based on the number of violations reported to the TRC. Listed among significant violator groups were the National Patriotic Front of Liberia, Liberians United for Reconciliation and Democracy, Liberia Peace Council, Movement for Democracy in Liberia, United Liberation Movement, Armed Forces of Liberia, United Liberation Movement-K, Independent National Patriotic Front of Liberia, United Liberation Movement-J, and Anti-Terrorist Unit. The Consolidated Final Report contains lists of “Most Notorious Perpetrators” (116 names), “Names of Persons (Perpetrators) Not Recommended for Prosecution” (38 names), “Recommended for Domestic Prosecution” (44 names),

“Recommended for Public Sanctions” (44 names, including President Sirleaf), and “Individuals Recommended for Prosecution for Economic Crimes” (26 names and 19 corporations).

The TRC made two significant recommendations in Volume I: 1) a special domestic court should be set up to prosecute the alleged perpetrators the TRC determined were responsible for “egregious” crimes, “gross” human rights violations, and “serious” violations of humanitarian law; and 2) the INHRC would manage a National Palava Hut Forum to establish Palava Hut Committees in the country’s 64 legislative districts to promote reconciliation at the local level. Committee representatives would meet at a national conference to foster collective unity.

The TRC completed its public hearings and held a national convention in June to finalize the report. The report was completed in draft form on July 1. In September the legislature tabled debate on the report’s recommendations until the new session in 2010. The Consolidated Final Report was released in December.

Effectiveness of the TRC, which has been hampered by poor management, staff shortages, and disharmony among commissioners, improved during the year, although conflicts between commissioners continued.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on ethnic background, sex, creed, place of origin, disability, ethnic origin, or political opinion; however, the government did not enforce these provisions effectively.

The constitution, however, enshrines discrimination on the basis of race, and only persons who are “Negroes” or of “Negro descent” can become citizens or own land. Differences stemming from the country’s civil war continued to contribute to social and political tensions among ethnic groups, notably the Congos, Krahn, Mano, Gio, and Mandingo.

Women.—Sentences for rapists range from seven years to life imprisonment, and accused rapists are not eligible for bail; however, the government did not effectively enforce the law. The law does not specifically criminalize spousal rape. The WCPS unit of the LNP stated that approximately 240 rape cases were reported to the unit during the first six months of the year, of which 129 were prosecuted; approximately 275 rape cases were reported in the previous year.

As mandated by the 2008 Gender and Sexually-Based Violence Bill, the special court for rape trials opened in Monrovia on February 24. The court has exclusive original jurisdiction over cases of sexual assault, including abuse of minors. According to Deweh Gray, head of the Association of Female Lawyers of Liberia, the court was established in response to the slow progress of rape cases in the existing courts. During the year the Liberia Rural Women Network, a rural women’s group, called for the establishment of special rape courts in all 15 counties, instead of only Montserrado.

Outside of Montserrado County, the stigma of rape contributed to the pervasiveness of out-of-court settlements and obstructed prosecution of cases. Inefficiency in the justice system also prohibited timely prosecution of cases, although local NGOs pushed for prosecution and sometimes provided lawyers to indigent victims. The government raised awareness of the issue of rape through billboards, radio broadcasts, and publicity campaigns.

The law prohibits domestic violence; however, it remained a widespread problem. The maximum penalty for domestic violence is six months’ imprisonment, but the government did not enforce the law effectively, and cases, if reported, were generally treated as either simple or aggravated assault. The government and the media made some efforts to publicize the problem, and several NGOs continued programs to treat abused women and girls, and to increase awareness of their rights. LNP officers received training on sexual offenses as part of their initial training. In 2007 the Gender Based Violence Secretariat completed a national action plan, and during the year the Ministry of Gender and Development organized workshops and seminars to create awareness of such violence.

Although prostitution is illegal, it was widespread.

The law does not prohibit sexual harassment, and it was a major problem, including in schools and places of work.

There are no laws restricting couples and individuals from deciding freely and responsibly the number, spacing, and timing of their children; however, information and assistance on family planning topics relevant to these issues was difficult to obtain, particularly in rural areas, where there were few health clinics. In Bong County, for example, women had to walk from one to four hours to reach a clinic, while in River Cess and Grand Kru counties, the walk could take one or two days. In Bong County 86 percent of women surveyed reported knowing about contraception, although only 35 percent reported using it, and only 20 percent had requested infor-

mation or treatment about sexually transmitted diseases. There was no indication of discrimination in diagnosis or treatment of sexually transmitted infections, including HIV.

Women have not recovered from the setbacks caused by the war, when many schools were closed and they were prevented from maintaining their traditional roles in the production, allocation, and sale of food at year's end. Thousands of women remained displaced, preventing them from pursuing livelihoods or education.

Women and men enjoy the same legal status. Women can inherit land and property, receive equal pay for equal work, and were allowed to own and manage businesses. A number of businesses were female-owned or -operated.

The government prohibits polygyny; however, traditional laws permit men to have more than one wife. No specific office exists to ensure the legal rights of women, but the Ministry of Gender and Development was generally responsible for promoting women's rights.

Children.—Citizenship can be derived through parentage or by birth in the country if both parents are of African descent; however, if the parents are not of African descent, their child—even if born in the country—will not acquire Liberian citizenship. As a result, residents not of African descent, such as members of the large Lebanese community within the country, could not acquire or transmit Liberian citizenship. The law requires parents to register their infants within 14 days of birth; however, less than 5 percent of births were registered. In May the government announced that it had resumed registering births following a 19-year interruption resulting in large part from the civil war. During the year the government reestablished registration centers in five of the country's 15 counties.

While primary education is compulsory and free, many schools still charged informal fees to pay unpaid teachers and to cover operating costs that ultimately prevented many students from attending. Fees continued for secondary school, and the government was unable to provide for the needs of the majority of children. In both public and private schools, families of children often were asked to provide their own uniforms, books, pencils, paper, and even desks. For primary education, the overall national gender ratio was 53 percent boys and 47 percent females, although significant gaps favoring boys remained in a few counties.

Widespread child abuse continued, and reports of sexual violence against children increased during the year. According to a December 9 UNMIL report, 66 percent of girls between the ages of 10 and 19 had been raped; 20 percent of victims were under 10 years of age. Civil society organizations reported increased incidents of rape of girls under 12, and there were 37 cases of alleged child endangerment during the first six months of the year.

FGM traditionally was performed on young girls in northern, western, and central ethnic groups, particularly in rural areas. The most extreme form of FGM, infibulation, was not practiced. The law does not specifically prohibit FGM. Two FGM practitioners were sentenced to life imprisonment after some of their victims died as a result of FGM. Traditional institutions, such as the secret Sande Society, often performed FGM as an initiation rite, making it difficult to ascertain the number of cases.

During the year there were reports that young women and girls engaged in prostitution for money, food, and school fees. Statutory rape is prohibited, and 63 cases were brought to court in the first six months. The minimum age for consensual sex is 18, and statutory rape is prosecuted. Child pornography is also prohibited by law, with a penalty of up to five years' imprisonment for violators.

Despite international and government attempts to reunite children separated from their families during the civil war, there were still children who lived on the streets in Monrovia. It was difficult to tell who were street children, former combatants, or IDPs. Nearly all children had witnessed atrocities during the 14-year civil war, and some children had committed atrocities.

The government continued to close unregistered orphanages during the year; however, regulation of orphanages continued to be very weak. Many unofficial orphanages also served as transit points or informal group homes for children, some of whom had living parents who had given up their children for possible adoption. Orphanages had difficulty providing basic sanitation, adequate medical care, and appropriate diet. They relied primarily on private donations and support from international organizations, such as the UN Children's Fund and the World Food Program, which provided food and care throughout the year. Many orphans lived outside these institutions.

Trafficking in Persons.—The law prohibits trafficking in persons; however, there were police reports that persons were trafficked to, from, and within the country, particularly for domestic work and other labor. Although no national database on

trafficking exists, there were 39 trafficking victims identified between March 2008 and February 2009, according to the National Anti-trafficking Task Force. Young women and children were at a particularly high risk for trafficking, especially orphans or children from extremely poor families. Trafficking victims often were subjected to harsh living and working conditions.

Traffickers enticed their victims with promises of a better life. Victims generally were not related to traffickers, although they were often from the same village. Parents of trafficking victims were persuaded that their children would have better food and educational opportunities and would eventually return home.

Penalties for trafficking range from one year to life in prison. Monetary restitution to victims is also provided for in the law. The law was widely disseminated among law enforcement personnel, although lawyers and judges were often unfamiliar with it. The ministries of justice and labor have primary responsibility for combating trafficking, but enforcement efforts were weak, and there were no convictions for trafficking during the year. The government cooperated with other governments on trafficking cases and extradited two traffickers to Guinea in September.

The government had limited capacity to provide services to victims; however, NGOs and church groups provided shelter for abused women and girls, including trafficking victims.

International NGOs, local NGOs, and churches worked with the government to raise awareness about trafficking, and the WCPS continued to address trafficking issues. The National Anti-trafficking Task Force appointed by the president in 2006 continued to meet during the year; however, it had no program budget. The task force held a three-day workshop for government officials and NGOs during the year.

The State Department's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—Although it is illegal to discriminate against persons with physical and mental disabilities, such persons did not enjoy equal access to government services. No laws mandate access to public buildings. Streets, schools, public buildings, and other facilities were generally in poor condition and inaccessible to persons with disabilities. Many citizens had permanent disabilities as a result of the civil war. Persons with disabilities faced societal discrimination, particularly in rural areas; however, unlike in the previous year, there were no reports that babies with deformities were sometimes abandoned.

The Ministry of Health and Social Welfare is responsible for protecting the rights of persons with disabilities. During the year the ministry conducted a series of sensitization programs for government social workers about persons with disabilities. NGOs provided some services to persons with disabilities.

National/Racial/Ethnic Minorities.—Although the law prohibits ethnic discrimination, racial discrimination is enshrined in the constitution, which provides that only “persons who are Negroes or of Negro descent” may be citizens or own land. Many persons of Lebanese and Asian descent who were born or lived most of their lives in the country were denied citizenship and the right to own property as a result of this racial discrimination.

The country has 16 indigenous ethnic groups; each speaks a distinct primary language and was concentrated regionally. Differences involving ethnic groups continued to contribute to social and political tensions.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The law prohibits sodomy, and the culture was strongly opposed to homosexuality. “Voluntary sodomy” is a misdemeanor with a penalty of up to one year's imprisonment; however, no convictions under the law occurred in recent years. There were no reported instances of violence based on sexual orientation. There were no lesbian, gay, bisexual, or transgender organizations in the country.

Other Societal Violence or Discrimination.—There were no reports of societal violence based on sexual orientation or against persons with HIV/AIDS.

Section 7. Worker Rights

a. The Right of Association.—The law allows workers to freely form or join independent unions of their choice without prior authorization or excessive requirements. The law also provides workers, except members of the military, police, and civil service, the right to associate in trade unions, and workers exercised this right in practice. The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law prohibits unions from engaging in partisan political activity. Workers, except members of the civil service, have the right to strike. Union power increased during the year through increased membership at major plantations; however, the country's largely illiterate workforce engaged in few economic activities beyond subsistence level.

The law does not prohibit retaliation against strikers; however, there were no such incidents during the year.

b. The Right to Organize and Bargain Collectively.—Collective bargaining is protected by law, and these laws were effectively enforced. With the exception of civil servants, all workers have the right to organize and bargain collectively.

The law does not prohibit antiunion discrimination, but there were no reports of such discrimination during the year.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits the employment and apprenticeship of children under the age of 16 during school hours; however, child labor was widespread in almost every economic sector. The government did not effectively enforce child labor law, and there were inconsistencies between the minimum employment age and compulsory educational requirements. For example, the minimum age for children to work at sea is 15. In urban areas children assisted their parents as vendors in markets or hawked goods on the streets. During the year there were reports that children were tapping rubber at smaller plantations and private farms. There were also unconfirmed reports that children were forced to work in conditions that were likely to harm their health and safety, such as stone cutting or work that required carrying heavy loads. Some children were engaged in hazardous labor in the alluvial diamond industry and in agriculture.

The Ministry of Labor's Child Labor Commission was responsible for enforcing child labor laws and policies; however, the commission was understaffed and conducted only two investigations during the year, neither of which resulted in any prosecutions or convictions. There were no government programs to prevent child labor or to remove children from such labor; however, international NGOs continued to work to eliminate the worst forms of child labor by withdrawing children from hazardous work and putting at-risk children in school. Other local and international NGOs worked to raise awareness about the worst forms of child labor.

e. Acceptable Conditions of Work.—The national law requires a minimum wage of approximately 15 Liberian dollars (\$0.20) per hour, not exceeding eight hours per day, excluding benefits, for unskilled laborers. The law does not fix a minimum wage for agricultural workers but requires that they be paid at the rate agreed in the collective bargaining agreement between workers' unions and their management, excluding benefits. Skilled labor has no minimum fixed wage, and the minimum wage for civil servants was raised during the year from 4,200 Liberian dollars (\$85) to 5,600 Liberian dollars (\$114) per month.

The relatively scarce minimum wage jobs did not provide a decent standard of living for a worker and family. Families dependent on minimum wage incomes also engaged in subsistence farming, small scale marketing, and begging.

The law provides for a 48-hour, six-day regular workweek with a 30-minute rest period per five hours of work. The six-day workweek may be extended to 56 hours for service occupations and to 72 hours for miners, with overtime pay beyond 48 hours. The law also provides for pay for overtime and it prohibits excessive compulsory overtime.

The law provides for paid leave, severance benefits, and safety standards, but enforcement was targeted solely at foreign-owned firms that generally observed these standards.

The Ministry of Labor lacked the ability to enforce government-established health and safety standards. The law does not give workers the right to remove themselves from dangerous situations without risking loss of employment.

Due to the country's continued severe economic problems, most citizens were forced to accept any work they could find regardless of wages or working conditions.

MADAGASCAR

Madagascar, with a population of over 20 million, is ruled by an unelected civilian regime that assumed power in a coup March 17 with military support. Andry Nirina Rajoelina adopted the title of President of the Transition, at the head of a loose coalition of former opposition politicians, and intends to remain in this position until elections are held. Former President Marc Ravalomanana, democratically elected in 2006, has resided abroad since the coup; since March 21, the parliament has been

suspended. In defiance of a negotiated agreement with the African Union (AU) and local political leaders, the regime failed to establish a transitional administration that would oversee free and open elections for the restoration of a legal government. Military leaders continue to assert their autonomy from the current political leadership, despite their tacit support of Rajoelina's de facto government.

The right of citizens to choose their government has been effectively curtailed. In addition, the following serious human rights problems were reported: unlawful killings; other security force abuses; harsh prison conditions, sometimes resulting in deaths; arbitrary arrest and detention; lengthy pretrial detention; censorship; official corruption and impunity; societal discrimination and violence against women and children; trafficking of women and children; and child labor, including forced child labor.

The conflict between Rajoelina and Ravalomanana began shortly after Rajoelina's election as Mayor of Antananarivo in 2007. An increasingly public feud between the politicians reached a turning point on December 13, 2008, when Ravalomanana closed VIVA TV, owned by Rajoelina. Disparate opposition groups lined up behind Rajoelina, who seized on widespread discontent to mount increasingly large demonstrations in Antananarivo over the following two months, culminating in a series of violent confrontations in January and February. Domestic and international efforts to broker talks failed to achieve resolution and, in early March, a mutiny within the army removed the security forces from Ravalomanana's control. On March 17, Ravalomanana signed a decree granting executive power to a military directorate, which subsequently transferred it to Rajoelina. The ongoing political conflict has resulted in widespread abuses of power, restrictions on assembly, speech, and press freedom, and an increase in politically motivated arrests and detentions.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were numerous reports that the government or its agents committed arbitrary or unlawful killings, under both the Ravalomanana government and Rajoelina's de facto government, which ruled after March 17. From January through April, there were a series of deaths and injuries as security forces struggled to maintain control of protests. On February 7, at least 30 protesters were killed and more than 100 injured outside Ambohitsorohitra Palace after presidential guards opened fire on protesters threatening to overrun the main gate.

Estimates of deaths during the conflict range from 150 to 300 nationwide; many of those fatalities occurred during riots and looting in late January, when at least 44 persons were trapped in a burning department store in Antananarivo. Others were killed during failed attempts to control crowds or intimidate protesters. On January 26, the first day of violent protests in Antananarivo, a boy was shot in a crowd outside Ravalomanana's MBS television station. On April 20, security forces reportedly shot two protesters during a march into the city center; their deaths resulted in larger protests the following day, and an eventual ban on public demonstrations. There were several other such incidents in the course of near-daily protests between January and May, both in Antananarivo and several of the larger regional capitals, none of which resulted in official disciplinary action against members of the security forces.

Between April and August, the pro-Ravalomanana opposition was blamed for a series of small explosions in the capital. The government has not convicted any of the suspects detained in connection with these bombings. On July 18, one man was killed and two injured when an explosive device they were carrying detonated prematurely. Testimony from the two injured suspects led to further arrests. There were allegedly numerous additional bombings, but no group claimed responsibility, and the de facto government has not been able to identify the source.

Police and gendarmes continued to use unwarranted lethal force during pursuit and arrest. In September 2008, police shot and killed a suspected criminal and injured a bystander during pursuit through an Antananarivo market. In a similar incident in October 2008 in Ankasina, police shot and injured a suspected thief who was fleeing. In 2007 gendarmes in Bekoby, near the northwestern town of Majunga, shot and killed two brothers for stealing a neighbor's cow; that same month a gendarme slashed another suspect's leg with a machete during pursuit and arrest, and the man bled to death after a day of questioning and beating. No action was taken against security force members responsible for these killings.

There were no public investigations into any incidents of violence by security forces under either Ravalomanana or Rajoelina, and the de facto government's security forces continued to operate with impunity. On September 26, a soldier later as-

sociated with the Special Intervention Force (FIS) shot a woman in the leg in Antananarivo. The de facto prime minister at the time, Roindefo Monja, indicated to the press that the soldier may have been intoxicated although he was never tried or disciplined for the incident.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution and law provide for the inviolability of the person and prohibit such practices; however, security forces subjected prisoners to physical and mental abuse.

After opposition leaders took power in March, Gendarme Commanders Charles Andrianatsoavina and Lylison Rene Urbain oversaw the Joint National Investigation Committee (CNME, later renamed the Special Intervention Force), which operated largely outside of the structure of the established security forces and was responsible for many of the high-profile arrests over the following six months. Andrianatsoavina was behind the March detention of Protestant pastor Lala Rasendrasahina and three military leaders due to their connections to Ravalomanana. He allegedly subjected Rasendrasahina to harsh treatment, including physical violence. Members of the CNME used excessive force during multiple arrests. On April 23, the CNME arrested four members of parliament accused of distributing money to protesters. One of the members of parliament accused Andrianatsoavina of striking him with his pistol while the members were forced to kneel in the street.

Prison and Detention Center Conditions.—Prison conditions were harsh and life threatening under both the Ravalomanana and Rajoelina regimes. Severe overcrowding due to weaknesses in the judicial system and inadequate prison infrastructure remained a serious problem; pervasive pretrial detention continued. As of December, the country's 82 prisons and detention centers held approximately 17,700 prisoners, exceeding intended capacity by over one-third. This included approximately 700 women and girls, and almost 400 juveniles. Of those detained, 8,480 were in pretrial detention.

Chronic malnutrition, which affected up to two-thirds of detainees in some prisons, was the most common cause of death. The Ministry of Justice's (MOJ's) efforts in 2007 and 2008 to raise prisoners' daily food ration (typically dry manioc, rice, or cassava) had not been implemented, and the situation worsened due to budget shortfalls as a result of the ongoing political crisis and the suspension of some foreign assistance. Families and NGOs supplemented the daily rations of some prisoners.

The MOJ reported 34 prison deaths from January to October, a reduction from 2007 and 2008. However, NGOs and media sources indicated that there was substantial underreporting of this figure.

Malnutrition and a lack of hygiene made detainees vulnerable to disease, including epidemics. Deteriorating prison infrastructure—including a lack of sanitary facilities and potable water—resulted in skin disease, insect infestation, and other health risks. Access to medical care was limited, although NGOs reported limited success in targeted sanitation activities at several facilities in the north.

The government's 2007 national action plan to rehabilitate and improve prison conditions had some success in reducing the number of pretrial detainees, but there was little change in other target areas. Due to the crisis, these gains were lost and the numbers of pretrial detainees rose to previous levels.

Church leaders and some NGOs reported that rape was commonplace in prisons and often used by prison guards and other inmates to humiliate prisoners. Other organizations stated that while rape cases were the exception, prisoners often prostituted themselves in jail for food.

Male and female prisoners were kept separate. The central prison had a separate quarter for women, and there was a women's facility in Manjakandriana. Juveniles were not always held separately from the adult prison population, and some preschool-age children shared cells with their incarcerated mothers. There were at least two political detainees held under house arrest instead of imprisonment with the general prison population, but others were generally held in the same facilities. Pretrial detainees were seldom kept separate from the general prison population.

The government generally permitted independent monitoring of prison conditions by the International Committee of the Red Cross (ICRC), several local NGOs, and some diplomatic missions, and such visits occurred during the year. The ICRC conducted visits several times during the year to each of 30 main penitentiary facilities around the country with private consultations in accordance with ICRC standard modalities. ICRC representatives were also permitted to visit detainees in pretrial or temporary detention, as need arose.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention; however, the government did not always respect these provisions in practice. The government permitted arrest on vague charges and detained suspects for long periods without trial. There was a sharp increase in politically motivated detentions both before and after the March 17 coup; the actual number remained disputed, but several of those arrested since March remained imprisoned (see section 1.e. and section 2.a.).

On April 29, CNME gendarmes arrested Manandafy Rakotonirina, a political ally of former president Ravalomanana, on the grounds that he was “the mastermind” behind anti-Rajoelina protests. On September 22, he was convicted on multiple charges, including inciting disorder and usurping public office, and given a two-year suspended sentence.

On September 12, the FIS, acting without a warrant, arrested Senator Eliane Naika in her hotel on charges of attending an illegal gathering and damaging public property. On September 18, the court granted her provisional release to await the beginning of her trial scheduled for October 13. She left the country on September 20 and had not returned at year’s end. There were no further developments in the case.

Role of the Police and Security Apparatus.—The Minister for Internal Security oversees the national police, the gendarmerie, and the coast guard, with authority for law and order in both urban and rural areas. The gendarmerie had previously been under the authority of the Ministry of Defense.

Lack of training and equipment, low salaries, and rampant corruption were problems in the national police and gendarmerie. Chronic underfunding and unclear command structures severely diminished the security forces’ ability to respond effectively to the civil unrest that began in January. By April security forces under the control of the de facto government began to assert control effectively over demonstrations in the capital, with an accompanying reduction in violence. The creation of the CNME in March diluted the authority of the minister for internal security, as it began to pursue high-profile targets independently outside regular judicial processes under commanders Charles Andrianatsoavina and Lylison Rene Urbain. Security forces routinely used excessive force during arrests and in crowd-control operations to disperse demonstrations, employing teargas, flash grenades, and live gunfire.

The Independent Anticorruption Bureau (BIANCO) is a nominally independent government agency, with a presidentially appointed director and oversight from the Committee for the Safeguard of Integrity within the presidency. BIANCO was unable to address the corruption and abuses of power perpetrated by security forces and did not play a visible role in addressing corruption problems associated with the ongoing political crisis.

Arrest Procedures and Treatment While in Detention.—Although the law requires that the authorities obtain arrest warrants in all cases except those involving hot pursuit, often persons were detained and jailed based on accusations or political affiliation. Defendants have a general right to counsel and the right to be informed of charges against them, but this right was not always respected. A system of bail exists depending on the crime; bail was frequently denied for more severe or high-profile crimes. Magistrates often resorted to a “mandat de depot” (retaining writ) under which defendants were held in detention for the entire pretrial period. The law limits the duration of pretrial detention and regulates the use of the mandat de depot, including regulations that limit the duration of detention based on the type of crime, with a theoretical maximum of eight months for criminal cases. Family members of prisoners generally were allowed access to prisoners; however, access was more limited to certain prisoners, such as those in solitary confinement or those arrested for political reasons.

The MOJ reported that approximately 50 percent of the prison population was in pretrial detention.

The law mandates that a criminal suspect be charged or released within 48 hours of arrest; however, the government often detained individuals for significantly longer periods before charging or releasing them. Poor record keeping, an outdated judicial system that favored keeping the accused in detention until their trial, an insufficient number of magistrates, lack of resources, and difficult access in remote areas contributed to lengthy pretrial detention, ranging from several days to several years. Many detainees spent a longer period in investigative detention than they would have spent incarcerated following a maximum sentence on the charges faced.

Amnesty.—As part of the August 9 Charter of the Transition, the country’s four main political movements agreed to a tentative plan for an amnesty covering political activities from 2002-09. In December however, Rajoelina formally abrogated the

charter, and with it the existing agreement on amnesty during the transition administration.

Shortly after taking power in March, Rajoelina's de facto government authorized the release and pardon of 48 individuals it deemed "political prisoners," who were imprisoned under the Ravalomanana government. Twenty of these prisoners had not yet received an official pardon, and remained in a poorly enforced house arrest. These includes a number of nonpolitical criminals, guilty of murder and other grave human rights violations during past conflicts. Most prominent among them was Lieutenant Colonel Assolant Coutiti, who was convicted in 2004 on two counts of torture during the 2002 political conflict, in addition to prior convictions related to politically motivated abductions and murder in the same conflict. Following widespread condemnation of the release, Rajoelina's government did not release any further prisoners whose incarceration predates the current political crisis. Several opposition figures arrested during the year were released in August as a gesture of good faith in advance of implementation of the Charter of the Transition. The release was criticized, however, for requiring them to sign a letter promising not to engage in further political activities.

e. Denial of Fair Public Trial.—Although the constitution and law provide for an independent judiciary, the judiciary was susceptible to executive influence at all levels, and corruption remained a serious problem. This worsened under the de facto government, and the use or threat of intimidation surrounded every major judicial decision since March 17. The absence of any legislative body permitted the de facto government effectively to rule by decree, with no check on executive power. The minister of justice routinely expressed an opinion on high-profile judicial decisions to the media before the court announced them.

The judiciary is under the MOJ and has four levels. Courts of first instance hear civil and criminal cases carrying lesser fines and sentences. The Court of Appeals includes a criminal court of first instance to adjudicate cases with potential sentences of confinement longer than five years. The Supreme Court of Appeals hears appeals of cases from the Court of Appeals. The High Constitutional Court reviews the constitutionality of laws, decrees, ordinances, and electoral disputes. The judiciary also includes specialized courts designed to handle matters such as cattle theft.

Military courts are reserved for the trials of military personnel and generally follow the procedures of the civil judicial system, except that military officers are included on jury panels. Defendants in military cases have access to an appeals process and generally benefit from the same rights available to civilians, although their trials are not public. A civilian magistrate, usually joined by a panel of military officers, presides over military trials.

The law provides traditional village institutions the right to protect property and public order. Some rural areas used an informal, community-organized judicial system called "dina" to resolve civil disputes between villagers over such issues as alleged cattle rustling. This system was criticized for human rights abuses, particularly for lack of due process before imposing harsh sentences well outside the scope of formal law.

Trial Procedures.—The law provides for a presumption of innocence; however, the presumption of innocence was often overlooked. The constitution and law provide defendants with the right to a full defense at every stage of the proceedings, and trials are public. While the law provides that juries can be used in all cases, in practice, juries were used only in labor disputes. Defendants have the right to be present at their trials, to be informed of the charges against them, to call and confront witnesses, and to present evidence. The government is required to provide counsel for all detainees on criminal charges who cannot afford their own attorney; however, many citizens were not aware of this right in practice. Attorneys have access to government-held evidence, but this right does not extend to defendants without attorneys. Defendants have the right to appeal convictions.

The law extends these rights to all citizens without exception; however, in practice these rights were routinely denied, as the de facto government prolonged incarceration of suspects for weeks without charge and continually postponed hearings while denying bail. For example, on June 3, former president Ravalomanana was tried and convicted in his absence for alleged abuse of power while in office; he later asserted that he was unaware that the trial was taking place.

Political Prisoners and Detainees.—No definitive numbers were available, but several well-known politicians were imprisoned under Ravalomanana's government, most of whom were released regardless of whether their incarceration had a criminal aspect alongside their political affiliations (see section 1.d.). The de facto government imprisoned more than 50 opposition figures since March, many with little or no evidence of having committed criminal or civil offenses. Subsequently, most were

released with no charges being filed, but at least two high-profile figures remained in government detention. Opposition leaders alleged that dozens of additional persons were detained without due process for their role in political protests, although the facts of their individual cases were unavailable.

On February 20, Rajoelina ally Jean Theodore Ranjivason was arrested for his alleged role in the January riots, and he remained incarcerated until the de facto government took power in March. President Ravalomanana blocked the request of several resident ambassadors to visit Ranjivason in prison after his arrest. On April 24, four Tiako-I-Madagasikara (TIM) party (former president Ravalomanana's party) parliamentarians were arrested for allegedly distributing money to protesters, without substantial evidence; they remained in prison until August 18, when they received suspended sentences of one year. On April 29, Ravalomanana ally (and presumptive prime minister) Manandafy Rakotonirina was arrested with several members of his opposition cabinet; his trial was postponed several times before he and most of those arrested with him were released in August.

Ralitera Andrianandraina, former head of security at the High Constitutional Court, was arrested in April for possession of illegal weapons, murder, and an alleged role in an attempt on Rajoelina's life. At year's end, his eight-month pretrial detention continued; he had not been to trial, although the government did not produce any evidence to justify his detention.

Lalaharinoro Rabemananjara was arrested on August 5, while serving as the lawyer for Manandafy Rakotonirina. She was charged with complicity in the June and July bombings and remained in pretrial detention despite a continued lack of evidence against her. At year's end, she was the only person still in prison in connection with the bombings.

Four opposition politicians were arrested on July 22 for their suspected role in the Antananarivo bombings; they remained in prison until August 14 without being charged and were then released on bail. There were a number of other politically motivated cases of detainees still pending; most of those detainees remained in pretrial detention without bail.

Some prisoners remained difficult to classify due to the effects of corruption and intimidation in the judicial process. These prisoners generally received equal treatment to that of other prisoners, and international humanitarian organizations were permitted access to them.

Civil Judicial Procedures and Remedies.—The judiciary's independence and impartiality was compromised by corruption and political influence, as indicated by BIANCO investigations and public perception. The judiciary deals with all civil matters, including human rights cases. However, the courts often encountered difficulty in enforcing judgments in civil cases.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law prohibits such actions, but homes and workplaces of opposition groups were subjected to arbitrary searches without warrants. On several occasions, security forces took suspects' family members hostage to force them to surrender. For example, in July five suspects were sought in connection with the bombs found in Antananarivo. Four were arrested, but family members of the fifth were held for several days before being released without charge, although authorities had not arrested the suspect.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution and law provide for freedom of speech and of the press, but both government and nongovernment groups actively impeded political criticism with threats and violence against reporters, media owners, and media outlets. Journalists were sent to jail, and government security forces attacked residences of editors or owners. For example, on February 7, Ando Ratovonirina, a reporter for the privately owned Radio et Television Analamanga, was shot and killed during the violence outside the presidential palace. Two private broadcast groups were closed over the course of the political crisis. In January three radio or television stations (private station MBS, and public stations RNM and TVM) were burned during riots.

There were 13 privately owned major daily newspapers and many other privately owned national and local news publications that were published less frequently. Before March *Le Quotidien*, which is owned by the former president, was the newspaper most heavily influenced by the state; since March *La Verite* and *La Gazette* have been most closely aligned with the de facto government. The government owned nationwide television and radio networks. The former president's privately owned television and radio station, MBS, was permitted to broadcast nationally, a right denied to all other private stations, before it was destroyed by fire in late Jan-

uary. There were approximately 256 other radio stations and 39 other television stations nationwide, which provided more limited geographic coverage.

The government forced the politically motivated closure of opposition media outlets during the year. The closure of then-mayor Rajoelina's VIVA TV in December 2008 by the Ravalomanana government for "disturbing order and public security" immediately precipitated the crisis that led to the coup. In April Rajoelina's transition government closed Radio and TV Mada (owned by Ravalomanana) for "inciting civil disobedience and disturbing public confidence in the institutions of the republic." Radio Mada had become a voice for the post-coup opposition; this role was then taken up by Radio Fahazavana, owned by the Protestant Church of Jesus Christ in Madagascar (FJKM).

During the rioting in January, the residence of parliamentarian and media owner Mamy Rakotoarivelo was attacked for alleged support by his media of the Ravalomanana regime. In March Rivo Christian Rakotonirina, chief editor of a pro-Ravalomanana online magazine, was beaten by pro-Ravalomanana demonstrators after they mistakenly accused him of working for pro-opposition Radio Antsiva. In May Radio Mada journalist Evariste Ramanantsoavina was arrested and jailed for "inciting revolt"; he was released two weeks later but was required to pay a fine of one million ariary (approximately \$500) for "disseminating false information."

To maintain access to sources and remain safe, journalists practiced extensive self-censorship, and many private radio stations shifted to live call-in shows to distance themselves from editorial responsibility for content.

In December the de facto minister of communication sent a letter to private radio and television stations instructing them to avoid any incitement to violence or to tribal hatred—charges which had previously been used to silence opposition radio. As a result, the call-in program and all news from Protestant church radio Fahazavana were suspended. A separate reminder was sent to Rajoelina's radio station, VIVA Radio, to stop incitement to civil unrest.

Internet Freedom.—There were generally no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Public access to the Internet was limited mainly to urban areas; modern technology and the necessary infrastructure were generally absent in rural areas. According to International Telecommunication Union statistics for 2008, approximately 1.65 percent of the country's inhabitants used the Internet.

Political groups and activists used the Internet extensively to advance their agenda, share news, and criticize other parties. Although there were allegations of technical sabotage from both sides of some Web sites during the year, the Internet was considered among the more reliable sources of information as many of the Web sites were outside the country and could not be regulated by the government.

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

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The constitution and law provide for freedom of assembly, but this right was restricted extensively during the year. Government officials and security forces regularly impeded opposition gatherings in locations around the country.

From January to March, Rajoelina's opposition alliance attempted to hold almost daily demonstrations in two locations in central Antananarivo. The government imposed restrictions on these gatherings after violent riots in early January, although security forces were routinely unable to control the crowds effectively. After the coup in March, the de facto government restricted protests by supporters of Ravalomanana. By April antigovernment demonstrations were limited to one location in Antananarivo at a facility owned by Ravalomanana. Police and gendarme forces moved quickly to disperse any crowds that formed elsewhere in Antananarivo and several provincial cities, citing security concerns.

In 2008 opposition groups were denied permission to hold meetings in several cities, including Antananarivo, Fianarantsoa, and Tamatave. In several cases, police withheld authorization, citing public safety, security concerns, or lack of justification for the event. Several groups held their events regardless, and opposition leaders were arrested or detained for these activities. For example, opposition leader Henri Lecacheur was given a three-month suspended sentence in September 2008 for allegedly holding an unauthorized rally in Antananarivo in August.

For several weeks starting in late April 2008, public demonstrations in Tulear, Diego Suarez, and Tamatave, originating with students' grievances against black-outs and study conditions, led to clashes between security forces and demonstrators. For example, protesters threw rocks at police, set fire to a public building in Tulear,

took the regional director of Tulear's penitentiary hostage, and looted shops. Police responded by releasing tear gas and firing shots to disperse the crowd; one person was shot in the leg. All arrested protesters were released; some received suspended prison sentences for inciting violence and disturbing public order.

Freedom of Association.—The constitution and law provide for the right of association and permit citizens to organize political parties and associations. The government generally respected this right in practice, although a law signed in January governing political parties imposes stringent new requirements. Parties are required to have representation in 12 regions within the first 30 months of their creation, hold regular national meetings, and participate in at least three consecutive elections, excluding the presidential election. Only legally constituted political parties would be able to present candidates. This law was not implemented before the March coup, however, and the de facto government did not present any plans to do so.

c. Freedom of Religion.—The constitution and law provide for freedom of religion, and the government generally respected this right in practice. However, some Muslims felt marginalized by the Ravalomanana government and expressed concern about their legal status. They expressed reluctance to describe some of their activities openly as "Islamic" for fear of discrimination although there were no reliable reports of government discrimination except regarding citizenship applications (see section 2.d.).

In April leaders of the original New Protestant Church in Madagascar, formerly known by its acronym FPVM, were permitted by the new regime to reopen their church, which was closed in 2005 under Ravalomanana. The government had permitted the reorganization of the FPVM in 2007 under the new name and with new leadership. The Universal Church of the Kingdom of God remained banned.

In 2007 Jesuit missionary Father Sylvain Urfer was deported on grounds that his entry visa had expired, although he had lived in Madagascar since 1974 and held a permanent visa since 1992. Some human rights activists claimed Urfer's expulsion was connected to Ravalomanana's opposition to his religious activities. Others cited his open criticism of the government as the reason. The Rajoelina transition government lifted the entry ban on Father Urfer, but he remained abroad at year's end.

Societal Abuses and Discrimination.—There were few reports during the year of societal abuses or discrimination based on religious belief or practice. Some Muslims felt they received unequal treatment in schools, hospitals, private businesses, and the workplace.

The four largest Christian denominations occupy an important role in public life, although their collective role in politics has diminished somewhat in recent years. The Council of Christian Churches in Madagascar, led at the time by the Catholic archbishop, served as an intermediary in the early stages of the crisis this year, but it withdrew entirely following the March coup. Leaders of both the FJKM (associated with the former government of Marc Ravalomanana) and the Catholic Church (associated with the current regime of Andry Rajoelina) tried to maintain a careful distance from the ongoing political struggle. However, both have seen their reputations as neutral actors in civil society severely tainted by perceptions of partisan engagement during the recent political turbulence.

There were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The constitution does not explicitly prohibit forced exile, and the government utilized it selectively. Several opposition figures, such as former deputy prime minister Pierrot Rajaonarivelo, returned to the country during the year despite outstanding legal issues arising from convictions handed down in their absence; at year's end, the de facto government had not moved to arrest them.

In December the de facto government issued a ban preventing the return of the three political factions attending the Maputo crisis talks. Rajoelina permitted the politicians' return a week later, once he had announced his formal break with the negotiation process and made clear his intention to proceed with a transition government outside the context of prior agreements.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian agencies.

Protection of Refugees.—The country is a party to the 1951 Convention relating to the Status of Refugees, but is not a party to its 1967 Protocol and has not ratified

the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. The law does not include provisions for the granting of asylum or refugee status, but the government has established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government granted refugee status or asylum and cooperated with the UNHCR and other humanitarian organizations in assisting the small number of refugees in the country.

Stateless Persons.—An arcane system of citizenship laws and procedures resulted in a large number of stateless persons in the minority Muslim community, many of whom have lived in the country for generations. Reliable figures remained unavailable, but Muslim leaders estimated as many as 5 percent of the estimated two million Muslims were affected. Citizenship is transmitted through “blood”; birth in the country does not transmit citizenship. Children born to a citizen mother and noncitizen father must declare their desire for citizenship by age 18 or risk losing eligibility for citizenship. Some members of the Karana community of Indo-Pakistani origin, who failed to register for Indian, Malagasy, or French citizenship following India’s independence in 1947 and the country’s independence in 1960, were no longer eligible for any of the three; this applied to their descendants as well. Members of the wider Muslim community suggested that a Muslim-sounding name alone could delay one’s citizenship application indefinitely. Lack of citizenship precluded voting rights and eligibility for a passport, which limited international travel.

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

The constitution and law provide citizens the right to change their government peacefully, and citizens previously exercised this right in practice by voting in presidential, legislative, and municipal elections between 2006 and 2008. However, this right was effectively curtailed when opposition protests led to a coup and the overthrow of the elected government in March. Following the December 2008 closure of his television station, VIVA TV, Andry Rajoelina, the former mayor of Antananarivo, led a coup in opposition to President Ravalomanana in March. Unable to consolidate his rule in the face of domestic and international condemnation, he engaged in a negotiating process from August to December. In December after the negotiations failed to yield results acceptable to him, Rajoelina unilaterally declared his intention to organize elections as early as March 2010. The opposition rejected this plan, pushing for a return to dialogue and an inclusive transition government. The resulting impasse, with political and civil society leaders divided over how to proceed, continued at the end of the year.

Elections and Political Participation.—There were no elections during the year. Indirect elections to the 33-member senate took place in April 2008; the ruling TIM party won all 22 elected seats, and the president appointed the remaining 11 members. Allegations of campaign and voting irregularities surfaced during and after the election, but no conclusive legal action was taken.

The 2007 municipal elections were initially declared free, fair, and peaceful, but local observers noted minor irregularities in some elections advantaging ruling party candidates over others. The State Council overturned results in several mayoral contests, citing localized miscounting and improper involvement of TIM candidates. By August 2008, TIM had lost 16 mayoral positions in court and gained six others. TIM did not initially interfere when Rajoelina won the mayoral race in Antananarivo, but the election marked the beginning of a conflict with then-president Ravalomanana, which culminated in the March coup.

In 2007 the country held a calm and relatively orderly legislative election marked by a low 46 percent voter turnout. The result was a national assembly in which all but 22 of 127 legislators were TIM party members. A number of domestic and international observer teams deemed the election generally free and fair, despite minor irregularities that did not affect the overall results. However, media coverage included unconfirmed reports of government interference and pressure at the local level, namely regional chiefs either promising local leaders rewards or threatening dismissal if the ruling TIM party candidate was not elected in their areas. Election observers also noted persistent structural shortcomings, including the need for an independent electoral commission, the need to revise the electoral code to include sanctions against fraud and to regulate campaign financing, and the lack of a single ballot. This absence could potentially disadvantage candidates who could not afford to print their own ballots or if the government failed to distribute its ballots adequately.

Until March there were four women in the cabinet, 10 women in the 127-member national assembly, and five women in the 33-member senate. Three of the 22 appointed regional administrators were women. Under the de facto government, there were six women in the cabinet; parliament was suspended after the March coup and has not yet been re-established.

Until March there were 11 Muslims and seven Chinese-Malagasy members in the national assembly and eight Muslims in the senate. Chinese-Malagasy and Muslims also held civil service positions. Residents of Indo-Pakistani origin were not well represented in the government.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and corruption reportedly increased after the March coup. The World Bank's Worldwide Governance Indicators reflected that in 2008 corruption was a problem, as was impunity. NGOs and the media reported that anticorruption efforts were more effective in pursuing low-level violators in recent years, with less success in attacking corruption at the national government level.

The general lack of rule of law created a permissive environment for illegal logging and the export of rare endemic hardwoods, primarily from the country's northern forests, which was perceived to have been facilitated by bribery at several levels of government. Foreign NGOs and media reports alleged that high-level corruption, ranging from local security forces to the national government, permitted the illegal cutting and export of rosewood and ebony trees, despite laws to protect them.

Key members of Rajoelina's High Transition Authority (HAT), a 44-member advisory council attached to the de facto executive, engaged in intimidation and extortion throughout the year with no penalty. Alain Ramaroson, president of the HAT's Defense and Security Commission, reportedly ran a private militia and abused his position to demand bribes, both in terms of money and goods, from both foreign and domestic private companies. Military leaders and the de facto justice ministry stated that they were unaware of such activities, although the allegations were widely publicized.

In 2008 the government created an anti-money laundering agency, SAMIFIN, and an ethics unit within each ministry. BIANCO, the government's Independent Anti-Corruption Bureau, and the MOJ signed an agreement in June 2008 for increased cooperation concerning data collection and case referrals.

Seventeen persons were arrested in 2007 in connection with the embezzlement of 10.8 billion ariary (approximately \$5.4 million) from the Central Bank in Manakara; the director of the Central Bank and two of his staff subsequently left the country to avoid arrest. At their trial in April, four were acquitted, 10 were released for lack of evidence, and six (including the director, in his absence) were given sentences up to 15 years' imprisonment and fines up to 20 million ariary (approximately \$10,000).

Public officials at the director-general level and above, excluding the president, were subject to financial disclosure laws. In practice in 2008 only 33 percent of those required to disclose assets or income did so. Disclosure laws were not enforced during the year.

There are no laws providing for public access to government information. Educational material on corruption, including statistics updated every quarter, was available to citizens and noncitizens, including foreign media.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The constitution and law require the government to create apolitical organizations that promote and protect human rights. Responsibilities have been delegated to several organizations covering areas such as child labor and domestic violence.

Numerous domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally unresponsive to their views, particularly after the March coup, but international human rights groups were allowed to enter the country, conduct their work, and consult freely with other groups. Domestic groups reported intimidation following the coup.

There were several domestic NGOs in the country that work in human rights, but very few have the capacity to work effectively and independently. The National Council for Election Observation continued to be a leader in the field of civic education, and provided technical support and training in several past elections. Other key organizations included the Observatory of Public Life, SOS aux victimes du non-droit, and Actions by Christians for the Abolition of Torture (ACAT) Madagascar, all of whom worked to monitor human rights issues and actively participated in

public and private forums on the subject. Political movements have on occasion attempted to co-opt these organizations, leading to accusations of their increasing politicization, but they were not routinely suppressed or subjected to harassment.

Following the March coup, the UN and other international bodies widely criticized both the Ravalomanana government and the de facto government for human rights abuses and for their continued failure to resolve the ongoing crisis through dialogue and new elections. The UN played an active role as part of the international mediation team and the International Contact Group on Madagascar, alongside the AU, the International Organization of the Francophonie, and the South African Development Community.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law prohibit all forms of discrimination, including on the basis of race, gender, and disability; however, no specific government institutions were designated to enforce these provisions.

Women.—The law prohibits rape in general but does not specifically refer to spousal rape. Penalties range from five years to life in prison, depending on factors such as the victim's age, the rapist's relationship to the victim, and whether the rapist's occupation put the individual in contact with children. Rapes of children and pregnant women were punishable by hard labor. An additional two to five years' imprisonment could be added in the case of rape with assault and battery, although the government did not always enforce these penalties. In 2008 the Morals and Minors Brigade reported receiving 10 to 12 rape-related complaints a day countrywide. There were 217 cases of rape reported in 2008 in Antananarivo; 130 were investigated. All of these figures probably underestimated the extent of rape nationwide, but there were no reliable figures available.

The law prohibits domestic violence, but it remained a widespread problem punishable with two to five years of prison and a fine of four million ariary (approximately \$2,000), depending on the severity of injuries and whether the victim is pregnant. In 2007 the government's National Institute for Public Health estimated that 55 percent of women were victims of domestic violence. The UN Population Fund (UNFPA) estimated in 2006 that one of three women in the southern and southeastern section of the country would suffer from violence at some point. A 2007 survey on conjugal violence conducted by the Ministry of Health (MOH) in collaboration with two NGOs found that of 400 women surveyed in Antananarivo, 45 percent were subjected to psychological violence and 35 percent to physical violence. Police and legal authorities generally intervened when physical abuse was reported. The MOH continued working with NGOs in Antananarivo and Fianarantsoa to provide victims with legal advice. Statistics on the number of domestic abusers prosecuted, convicted, or punished were unavailable. Anecdotal evidence from NGO-run welcome centers indicated that the political crisis, and its related social and economic impacts, correlated with a rise in the incidence of domestic violence, with two- or three-fold increases in cases reported.

Prostitution is not a crime, but related activities, such as pandering and incitement of minors to debauchery, are criminal. Prostitution was pervasive and particularly visible in areas frequented by tourists. Sex tourism was an increasing problem with the growth of the tourism industry. The government continued its national awareness campaign by posting signs throughout airports and hotels, including a full-page warning against engaging in sex tourism in the customs booklet given to arriving international passengers. In 2007 the government adopted a law modifying the criminal code to define child sexual exploitation, child sex tourism, child pornography, and trafficking in persons, and stipulating penalties for violations. NGOs reported that the law was used in court on several occasions, but had not yet resulted in a conviction.

Sexual harassment is against the law. Penalties vary from one to three years of imprisonment plus a fine of one to four million ariary (approximately \$500 to \$2,000). This penalty increases to two to five years of imprisonment plus a fine of two to 10 million ariary (\$1,000 to \$5,000) if the victim was forced or pressured into sexual acts or punished for refusing such advances. However, the practice was widespread, particularly in export processing zone (EPZ) factories. The UNFPA estimated that 50 percent of women working in EPZs were victims of sexual harassment. The government enforced sexual harassment laws when cases were brought to court; however, there were no reported court cases during the year.

Couples and individuals freely exercised their reproductive rights with no legal or policy discrimination or coercion. The government provided free access to contraceptives and family planning information at public clinics, and services were also available in the private sector. Skilled attendance during childbirth was low, particularly in rural areas, where there were few trained health workers. During the year all

delivery services, including Caesarean sections, were free in government health facilities. Men and women had equal access to diagnosis and treatment of sexually transmitted infections, including HIV. However, since much of the population lived over two miles from public clinics, many in rural areas were unable to access reproductive health and maternity services; the government and donors have identified this as a critical constraint and a variety of programs were instituted to expand the availability of quality care. However, there was an overall lack of resources to address the issue comprehensively.

Women generally enjoyed the same legal status as men. Under the law wives have an equal voice in selecting the location of the couple's residence and generally received half the couple's assets if the marriage ended. While widows with children inherit half of joint marital property, a husband's surviving kin have priority over widows without children—leaving them eighth in line for inheritance if there is no prior agreement and potentially leaving them with none of the estate or a very small portion of it. In practice these requirements were not always observed.

A tradition known as “the customary third,” which provided the wife with the right to only one-third of a couple's joint holdings, was occasionally observed. Although the country is party to the Convention for the Elimination of all Forms of Discrimination Against Women, there was no special government office to ensure the legal rights of women.

There was relatively little societal discrimination against women in urban areas, where many women owned or managed businesses and held management positions in private businesses and state-owned companies. In rural areas more traditional social structures tended to favor entrenched gender roles, as most of the population is engaged in subsistence farming. In 2003 the Ministry of Civil Services and Labor reported that women owned 30 percent of formal sector companies and 53 percent of informal sector companies. While there is little discrimination in access to employment and credit, women often did not receive equal pay for substantially similar work. Women were not permitted to work in positions that might endanger their health, safety, or morals. According to the labor and social protection codes, such positions include night shifts in the manufacturing sector and certain positions in the mining, metallurgy, and chemical industries.

A number of NGOs focused on the civic education of women and girls and publicized and explained their specific legal protections; however, due to illiteracy, cultural traditions, societal intimidation, and a lack of knowledge of their rights, few women lodged official complaints or sought redress when their legal rights were violated or ignored.

Children.—The ministries of health, population, and education play the principal role in addressing child welfare, but the ministries of justice, civil services and labor, youth and sports, and the minister of internal security also play a role. In 2008 an increase in the budget for education had permitted some improvement in services for vulnerable groups, but already insufficient education funds were further limited by the suspension of donor funds following the March coup, resulting in inadequate services.

Citizenship is derived from one's parents, although children born to a citizen mother and a foreign father must declare their desire for citizenship by age 18. The country has no uniformly enforced birth registration system, and unregistered children have historically not been eligible to attend school or obtain health care services. The United Nations Children's Fund (UNICEF) worked with the government to provide birth certificates for both newborn children and those who did not receive one at birth. According to a 2003-04 study by INSTAT, the government's office of statistical studies, 25 percent of children in the country under the age of five were not registered.

The constitution provides for tuition-free public education for all citizen children and makes primary education until age 14 compulsory. According to government statistics, 85 percent of primary school-age children were enrolled, although a 2008 report from the International Labor Organization (ILO) indicated that far fewer actually attended school. Children in rural areas generally studied through middle school, whereas children in urban areas commonly finished the baccalaureate examination process for entrance into university.

Child abuse was a problem. Since the beginning of the political crisis, cases of child rape increasingly appeared in the media.

In 2007 the government adopted a 2008-12 national action plan on violence against children, including child labor, sexual exploitation, and trafficking. The MOH, in collaboration with UNICEF, operated more than 14 multisector networks throughout the country to protect children from abuse and exploitation. In light of recent child-related legislation, several ministries worked with UNICEF to develop training manuals on child rights and safeguards for officials working in child protec-

tion networks. In June 2008 the government completed a one-year program to train and assist security forces in the protection of children.

Government statistics indicated that 33 percent of girls between the ages of 15 and 19 years were married. Child marriage was especially prevalent in rural areas, where most couples were united in traditional local ceremonies outside the legal system. The legal age for marriage without parental consent was 18 years for both boys and girls.

Children engaged in prostitution for survival without third-party involvement. Child prostitution constituted one of the primary forms of child labor. A 2007 UNICEF study in the coastal cities of Toamasina and Nosy Be found that between 30 and 50 percent of females exploited in the commercial sex field were less than 18 years old.

Although child abandonment is against the law, it was a significant problem due to acute poverty and lack of family support. There were few safe shelters for street children, and government agencies generally tried to place abandoned children with parents or other relatives first; orphanages and adoption were a last resort. A traditional superstition in the southeast against giving birth to twins led some parents in the region to abandon one or both of their twin children, who sometimes were left to die. Three separate studies have been completed on this subject since 2007, including one that focused on the treatment of twins in Mananjary, and NGOs actively promoted awareness of the issue. However, no changes to the legal framework or enforcement policy had been adopted by year's end.

Trafficking in Persons.—The law specifically prohibits trafficking in persons, but there were reports that persons were trafficked within the country. The vast majority of cases involved children and young women, mostly from rural areas, trafficked for sexual exploitation and forced labor including domestic servitude, mining, and street vending. A sex tourism problem existed in coastal cities, as well as Antananarivo, with a significant number of children exploited as prostitutes. International trafficking was rare, although recent cases of young women trafficked for domestic work in Lebanon appeared in the media, following reports of at least one suicide by such a victim. There were unconfirmed anecdotal reports of women and girls trafficked for prostitution to the neighboring islands of Mauritius and Reunion.

Principal traffickers ranged from organized criminals to “friends” to taxi drivers to distant family members. Traffickers often took advantage of young women, girls, and boys in rural areas by falsely promising employment opportunities in urban areas, particularly in domestic employment.

Traffickers may be prosecuted under provisions prohibiting procurement of minors for prostitution, pedophilia, procuring, and deceptive labor practices. In 2007 a law was adopted prohibiting all forms of violence against children, including sexual exploitation, and providing for punishment of adult exploiters of child prostitutes. Also in 2007 a law was adopted defining trafficking in persons, among other crimes, and stipulating sanctions for the authors of such crimes, particularly when committed against children. The MOJ is responsible for enforcement of such laws, but NGOs reported that the laws were not effectively enforced.

During the year there were no reports of arrests specifically for trafficking, although there were several cases related to the commercial sexual exploitation of children. However, the absence of a centralized database of legal cases and a law specifically defining trafficking activities or sanctions before 2007 impeded prosecution and recordkeeping. A centralized database was established in September 2008 under the authority of the Secretary of State for Internal Security; it was operational as of the end of 2008, but lacked the required legal standing for use in court.

Police cooperated with neighboring countries and Interpol in the investigation and prosecution of trafficking cases. The government did not extradite foreigners charged with trafficking in other countries, nor did it extradite citizen nationals. Whether because of corruption, pressure from the local community, or fear of an international incident, local police and magistrates in tourist areas often hesitated to prosecute foreign pedophiles.

The government continued to address child labor and trafficking through educational and birth registration campaigns. Child workers put in the country's three NGO-run welcome centers were either given vocational training or placed back in school. In 2008 the MOH worked with UNICEF to establish new multisector child protection networks throughout the country to handle individual cases of child exploitation, including trafficking; these centers continued to operate during the year.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The law prohibits discrimination against persons with physical and mental disabilities, broadly defines their rights, and provides for a na-

tional commission and regional subcommissions to promote the rights of persons with disabilities. In practice, however, these rights were rarely enforced, and the legal framework for promoting accessibility remained perfunctory. A 2005 study conducted by the NGO Handicap International found that persons with disabilities seldom had access to health care, education, employment, or accommodation for communication or other basic services, and women and girls with disabilities were often victims of physical violence.

The MOH is responsible for protecting the rights of persons with disabilities. Then-president Ravalomanana signed the International Convention on the Rights of the Disabled in 2007, but no implementing legislation had been passed by year's end. Isolated projects at the community level had some success. In 2008 a public market in the city of Majunga gained special handicapped access, a health and transportation benefits program with identity cards was developed in the city of Fianarantsoa, and persons with disabilities had been successfully integrated into public schools in some areas where they previously had no access. With international funding in 2008, the city of Antiranana has worked to make city hall, health centers, and other administrative buildings accessible. However, reports continued that schools often rejected students with disabilities, claiming their facilities were not adequate. Local NGOs also provided evidence that persons with disabilities were routinely refused access and verbally abused by teachers throughout the education system, from primary school to university. In June a study on the integration of children with disabilities in the educational system found that their attendance rate was only 0.26 percent in 631 schools surveyed, due to the lack of specialized programs, poor understanding of disabled children's needs, and insufficient resources.

National/Racial/Ethnic Minorities.—None of the 18 tribes of the country constituted a majority. There were also minorities of Indo-Pakistani, Comoran, and Chinese heritage. Ethnicity, caste, and regional solidarity often were factors in hiring and were exploited in election campaigns. A long history of military conquest and political dominance by highland ethnic groups of Asian origin, particularly the Merina, over coastal groups of African ancestry contributed to tension between citizens of highland and coastal descent, particularly in the political sphere.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The law does not prohibit discrimination against lesbian, gay, bisexual, and transgender (LGBT) activity, and there was general societal discrimination against LGBT.

Sexual orientation and gender identity were not widely discussed in the country, with public attitudes ranging from tacit acceptance to outright physical violence, particularly against transvestite sex workers. Local NGOs reported that most organizations that worked with the LGBT community did so as health service providers, often in the context of their work to combat the spread of HIV/AIDS. LGBT sex workers were frequently the target of aggression, including verbal abuse, stone throwing, and even murder. In recent years there has been an increased awareness of "gay pride" through positive media exposure and even a march in central Tana, but general attitudes have not changed.

The country's penal code provides for a prison sentence of two to five years and a fine of two to 10 million ariary (approximately \$1,000 to \$5,000) for acts that are "indecent or against nature with an individual of the same sex under the age of 21." There are reports of official abuses occurring at the community level, such as administrative officials denying health services to transvestite men or breaking confidentiality agreements, although no cases have ever been pursued in court.

Other Societal Violence or Discrimination.—Although the national HIV/AIDS rate was low at approximately 1 percent, there was stigma and discrimination attached to having HIV/AIDS. In 2007 the government adopted a law protecting HIV/AIDS patients' rights to free and quality health care and specifying sanctions against persons who discriminated or marginalized persons with the disease. This has reportedly helped reduce discrimination, following public testimony and greater awareness of issues affecting those living with HIV/AIDS. The law was enforced by the ministries of health and justice and the National Committee for the Fight Against AIDS in Madagascar.

Section 7. Worker Rights

a. The Right of Association.—The law provides that public and private sector workers may establish and join labor unions of their choice without prior authorization or excessive requirements. However, those classified as essential workers, including police, military, and firefighters, may not form unions. Ministry of Civil Services and Labor statistics from 2007 indicated that 14 percent of workers in EPZ

companies and 10 percent of all workers were unionized. The government had no reliable statistics on the number of public employees participating in unions, but it was generally believed that few public employees were union members, despite the existence of several public employees' unions.

The law provides most workers with the right to strike, including in EPZs, and workers exercised this right; however, workers must first exhaust the conciliation, mediation, and arbitration procedures. Civil servants and maritime workers have their own labor codes. Workers in other essential services, such as magistrates, have a recognized but more restricted right to strike.

b. The Right to Organize and Bargain Collectively.—The law provides for unions to conduct their activities without interference, and the government generally respected this right. The law also provides workers in the private sector the right to bargain collectively; however, civil servants were not covered under such agreements.

The law prohibits antiunion discrimination by employers; however, the Ministry of Civil Services and Labor indicated that some employees did not join unions due to fear of reprisal. In the event of antiunion activity, unions or their members may file suit against the employer in civil court.

Since passage of a new EPZ law in January 2008, labor laws in the EPZ vary somewhat from the country's standard labor code. EPZ labor contracts may now differ in terms of contract duration, restrictions on the employment of women during night shifts, and the amount of overtime permitted.

c. Prohibition of Forced or Compulsory Labor.—The labor code prohibits forced or compulsory labor, including by children, but at times the government did not respect this prohibition. Many children and women were forced into domestic servitude, commercial sexual exploitation, and sometimes street vending and mining. While prisoners and pretrial detainees can no longer be forcibly hired out to government officials for private use, unless the prisoner agrees to the terms of employment and monetary compensation stipulated in the labor code, they can still be hired out for public use by government offices. In addition under the *Main d'oeuvre penale* (MOP) system, prisoners can work voluntarily in prison fields or penal camps to engage in agriculture, sometimes producing their own food. Except for those condemned to forced labor, they are entitled to receive a salary. There were also reports that prisoners were sent, at their own request and under state supervision, to perform remunerated work for private individuals.

Forced labor by children occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—There were laws to protect children from exploitation in the workplace and prohibit forced or compulsory labor, but the government sometimes encountered trouble enforcing these laws, due to inadequate resources and insufficient personnel. Child labor was a widespread problem.

The minimum age for employment was 15 years of age, consistent with educational requirements. The law allows children to work a maximum of eight hours per day and 40 hours per week with no overtime. The law prohibits persons under the age of 18 years from working at night and at sites where there is an imminent danger to health, safety, or morals. Employers must observe a mandatory 12-hour rest period between shifts. Occupational health and safety restrictions include parental authorization and a medical visit before hiring.

The ILO's 2007 National Survey on Child Labor in Madagascar indicated that approximately 28 percent of the children between the ages of five and 17 (1.8 million children) were working on a full- or part-time basis, with an estimated 438,000 children involved in dangerous work. Children in rural areas worked mostly in agriculture, fishing, and livestock herding, while those in urban areas worked in occupations such as domestic labor, transport of goods by rickshaw, petty trading, stone quarrying, work in bars, and begging. They were also victims of commercial sexual exploitation. Children also were engaged in salt production, deep sea diving, and the shrimp industry. The Ministry of Civil Services and Labor estimated that more than 19,000 children were working in the mining towns of Ilakaka in the south, mostly in the informal sector, helping their families mine for gemstones or working as domestics or prostitutes. Children were trafficked internally for the purposes of forced labor and sexual exploitation.

The Ministry of Civil Services and Labor is responsible for enforcing child labor laws and policies in the formal sector and conducted general workplace inspections during the year in response to a range of complaints. In 2008 the ministry had only 68 inspectors to carry out its responsibilities, making it difficult to monitor and enforce child labor provisions effectively. There is no enforcement in the much larger informal sector.

In 2007 the government adopted a decree regulating the working conditions of children, defining the worst forms of child labor, identifying penalties for employers, and establishing the institutional framework for its implementation. NGOs reported improved awareness of the issue as a result; however, this had not been matched with more effective pursuit of labor law violators.

In 2008 the Ministry of Civil Services and Labor continued implementing its 15-year national plan to combat the worst forms of child labor, including prostitution. In addition to the existing Regional Committee to Combat Child Labor (CRLTE) in the north, two additional CRLTEs were established in 2007 in the southwest and on the east coast.

In 2007 as part of the continuing “red card campaign” to raise awareness about the fight against child labor, the government worked with the Malagasy Soccer Federation (FMF) to conduct awareness campaigns around the country; this campaign continued during the year with support from the FMF and the ILO International Program on the Elimination of Child Labor.

NGO-run welcome centers in Antananarivo, Tamatave, and Tulear continued to receive victims of trafficking and forced labor.

e. Acceptable Conditions of Work.—The Ministry of Civil Services and Labor was responsible for enforcing the working conditions and minimum wages prescribed in the labor code, but it often encountered trouble enforcing these laws due to inadequate resources and insufficient personnel.

The monthly minimum wage was 70,025 ariary (approximately \$35) for non-agricultural workers and 71,000 ariary (\$36) for agricultural workers. This did not provide a decent standard of living for a worker and family, particularly in urban areas. Although most employees knew what the legal minimum wages were, those rates were not always paid. High unemployment and widespread poverty led workers to accept lower wages.

The standard workweek was 40 hours in nonagricultural and service industries and 42.5 hours in the agricultural sector. Legislation limited workers to 20 hours of overtime per week, but employees often were required to work until production targets were met. In some cases this overtime was unrecorded and unpaid.

The government sets occupational health and safety standards for workers and workplaces. The National Fund for Social Welfare, the country’s social security agency, conducted inspections and published reports on workplace conditions, occupational health hazards, and workplace accident trends. The 68 labor inspectors in the Ministry of Civil Services and Labor were sufficient to monitor effectively conditions for workers only in the capital. Workers have an explicit right to leave a dangerous workplace without jeopardizing their employment as long as they inform their supervisors. However, this right was not always respected in practice

MALAWI

Malawi is a multiparty democracy with a population of approximately 13 million. In May Bingu wa Mutharika of the Democratic Progressive Party (DPP) was re-elected president. International observers noted that the elections were an improvement compared with the 2004 elections and that they were conducted in a free and fair manner. Constitutional power is shared between the president and the 193 national assembly members. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in some areas, including police use of excessive force, although the government made some efforts to prosecute abusers; occasional mob violence; harsh and life-threatening prison conditions; impunity; arbitrary arrest and detention; lengthy pretrial detention; limits on freedom of speech and the press; official corruption; societal violence against women; trafficking in persons; and child labor.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, security forces killed one person during the year. Perpetrators of past abuses were occasionally punished, but investigations often were abandoned or were inconclusive.

On August 10, police raided a bar in the village of Karonga and, according to eye-witnesses, beat everyone present, including customer Stumai Mwalwanda. Mwalwanda was reportedly beaten unconscious, while the other individuals were ar-

rested. Mwalwanda was later transported to the Karonga district hospital, where he was pronounced dead upon arrival. By year's end no action had been taken against the police involved in the beating.

In the August 2008 case where police officers from a rapid response unit shot and killed truck driver Yusuf Abdullah, one of the officers was convicted of manslaughter and sentenced to 12 years' imprisonment with hard labor. Three other officers were acquitted.

There were no developments in the September 2008 case of a police officer who shot and killed a 13-year-old boy during a land dispute in the Mbayani area of Blantyre. Police had not identified the responsible officer by year's end.

There were no developments in the following 2007 cases: the January police killings of Robert Phiri and Thomas Chizenga; the June killing of six persons in a vehicular accident by Henry Msinkhu, a Blantyre police officer; the October death of Grant Chilimba while in police custody; the December killing of Wilson Master by a guard for government-owned company Admarc; and the December killing of Dinnis Mashalubu by another Admarc guard.

Mobs sometimes beat, stoned, or burned suspected criminals to death. For example, on February 9, villagers in the Nkhata Bay District beat to death village headman Pegson M'nhwakwata Chirwa and then burned his body. Chirwa was suspected of being a practitioner of witchcraft. The police arrested several suspects, and investigation of the case continued at year's end.

During the year police arrested 16 suspects in the February 2008 killing of Laston Seunda by a mob in Thyolo. At year's end the suspects were released on bail and awaiting trial before the high court in Blantyre.

There were no developments in the following 2008 cases of mob violence: the January killing of Chimwemwe Kanyoza by a mob in Ndirande Township, Blantyre, and the June killing of Harold Yobe by a mob in Chiradzulu. Investigations continued, but no arrests had been made by year's end.

No further information was available in the following 2007 mob killings: the killing by six suspects of a man in Karonga, the killing of a man in Chiradzulu, and the stoning to death of an herbalist in Dowa.

b. Disappearance.—There were no reports of politically motivated disappearances. There were no developments in the 2007 disappearances of Christopher Chimbalanga and Hassan Twaliki from a Lilongwe police station.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution and law prohibit such practices; however, police used excessive force and other unlawful techniques in handling criminal suspects. Unlike the previous year, there were no reports that police used torture. While senior officials publicly condemned prisoner mistreatment, their subordinates continued to employ unacceptable techniques. In an October 2 press release, Peter Mukhito, the new inspector general of police, publicly stated that he would not shield any police officer accused of wrongdoing. The Malawi human rights commission (MHRC) and local nongovernmental organizations (NGOs) condemned police for human rights violations several times throughout the year.

For example, on July 15, police fired into an unarmed crowd, wounding two, in the Bangwe township of Blantyre. The crowd had gathered in response to a rumor that police were shielding a man suspected of engaging in witchcraft. There were no further developments by year's end.

On August 29, Chrispin Ulemu Kam'mayani, a lawyer for the MHRC, was reportedly beaten and arrested by a police officer when he went to serve a high court order. Police denied the allegations, and there were no further developments by year's end (see section 2.d.).

On September 3, the press reported that Nthethiwa Salamba, age 17, Charles Sadick, age 16, and Alexander Sadick, age 30, were beaten by police after being arrested outside a pub in Limbe. The alleged victims were held for two days before being released. The case was under investigation at year's end.

There was no new information available regarding the March 2008 report in The Nation of an unknown woman being abused and rendered unconscious by a police officer outside the Chilinde police station in Lilongwe.

No further information was available regarding the alleged August 2008 beating of Aubrey Kasten by three police officers from the Kabula police station in Blantyre.

There was one instance of security forces engaging in rape and sexual abuse. On June 19, a Lilongwe magistrate's court sentenced police constable Patrick Machado to six years' imprisonment with hard labor for raping a female suspect while she was in his custody.

In the August 2008 sodomy case against Lilongwe police officer Enock Chawanda, the accused was found guilty and sentenced to five years in prison.

There were no developments in the following 2007 cases of police abuse: the use of excessive force by police to disperse demonstrators at Lengwe national park, and the machete hacking by two policemen of the back of a man's head.

Prison and Detention Center Conditions.—Prison conditions remained harsh and potentially life threatening; overcrowding, inadequate nutrition, substandard sanitation, poor health facilities, and prisons in poor physical condition remained serious problems. A Malawi Prison Service spokesman acknowledged that conditions in the prisons were poor, but attributed this to inadequate funding. Budget allocations for the prison system were less than 20 percent of the stated need.

The prison system's 24 facilities, which were built to accommodate approximately 5,000 inmates, routinely held at least double that number. According to the prison commissioner, there were more than 11,000 inmates in the prison system at year's end. Staffing in prisons remained inadequate despite a three-year program to recruit more staff. The warden to inmate ratio improved to one warden per nine inmates.

Daily prison rations were meager. Family members were allowed to bring other food items and inmates were encouraged to grow vegetables and raise livestock; however, malnutrition in the prison population remained a problem.

Community service programs were available as alternatives to prison terms for first-time offenders convicted of less serious crimes, and who had permanent addresses.

While the exact number was not known, numerous inmates died in prison each month, largely due to HIV/AIDS, diarrhea, pneumonia, tuberculosis, and inadequate diet.

Women were not kept in separate facilities, but the more than 200 female prisoners were segregated within the prison compound and monitored by female guards. A total of 16 prison facilities housed women. Juveniles were lodged in the same facilities as adults, but were kept in separate areas. There were three juvenile detention centers (Bvumbwe, Lilongwe, and Byandzi) and two prisons with juvenile wings (Zomba and North Mzimba).

As of the end of September, according to the Malawi Prison Service, there were 571 children lodged in prisons, either serving sentence or awaiting trial. Blantyre Child Justice Court Magistrate Esme Tembenu continued to lead a program to remove children from prisons and put them into reformatory centers, but the problem continued.

Police concluded their investigation into the November 2008 Chitseko and Cosman case, where Thylo police officers allegedly arrested, handcuffed and questioned six children between the ages of four and 11. The investigation cleared the officers of any wrongdoing, but a review of the case by the Ministry of Justice continued at year's end.

The law requires pretrial detainees to be held separately from convicted prisoners, but many prisons did not comply due to inadequate facilities. The number of pretrial detainees remained greater than 2,000.

During the year the government permitted domestic and international NGOs and the media to visit and monitor prison conditions and to donate basic supplies. The International Committee of the Red Cross (ICRC) did not visit any prisons during the year.

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

Role of the Police and Security Apparatus.—The Malawi police service, controlled by the Ministry of Internal Affairs and Public Security, has responsibility for law enforcement and maintenance of order. Police occasionally called on the army for support to help operate roadblocks and to assist in manhunts.

The police force was inefficient and poorly trained due in part to inadequate funding. The lack of a qualified pool of candidates from which to recruit was a major barrier to improvement. Corruption continued to be a problem. Police continued efforts to improve their investigative skills, including training on internal affairs investigations, and to introduce the concept of victims' rights through workshops and other training exercises, particularly in the areas of sexual abuse, domestic violence, and trafficking in persons. Police continued to receive foreign assistance for training officials and procuring equipment.

On September 17, Casper Chalera, the head of the Malawi police service fiscal and fraud section, was charged for failing to account for 589,436 Malawi kwacha (MKW) (\$4,040) that police had collected from a suspect in an arrest at Chileka International Airport. Chalera pleaded not guilty and was released on bail awaiting trial. A hearing date had not been set by year's end.

Arrest Procedures and Treatment While in Detention.—The law provides the accused the right to challenge the legality of detention, to have access to legal counsel, and to be released on bail or informed of charges by a court within 48 hours; however, these rights were often ignored in practice.

Most suspects were apprehended without a warrant if a police officer had probable cause. While arrest warrants were normally issued by a duly authorized official based on presented evidence in cases involving corruption or white-collar crime, poorer residents were often arrested without warrants. The use of temporary remand warrants to circumvent the 48-hour rule was widespread. Bail was frequently granted to reduce prison overcrowding rather than on the merits of the case. There were reports of officers requesting payment of a bribe for police bail, a system in which police are authorized to grant bail without a bond. During the year the MHRC received three complaints of arbitrary detention related to overstay of remand, denial of bail, and unheard appeals. The government provided legal services to indigent detainees; however, access was often delayed, since there were only 15 lawyers and seven paralegals working as public defenders.

Relatives were regularly denied access to detainees.

Arbitrary arrests remained a problem. Police regularly used “bait arrests” of relatives when a suspect could not be found to draw the wanted individual from hiding.

On March 21, security forces arrested two opposition politicians after a political rally. On November 11, United Democratic Front (UDF) Deputy Secretary General Hophmally Makande was found guilty of “proposing violence,” and Malawi Democratic Party President Kamlepo Kalua was found guilty of “uttering seditious words.” Both were sentenced to 20 months of hard labor but appealed their convictions. The appeal was pending at year’s end.

There were no further developments in the May 2008 treason cases against nine persons, most of whom had close ties to the UDF.

There were no developments in the May 2008 treason case against former president Bakili Muluzi, who returned to the country on December 12.

Eighteen percent of the prison population were pretrial detainees, down from 25 percent the previous year. Pretrial homicide suspects were typically held in detention for two to three years, although at Maula Prison alone, there were believed to be 15 suspects who had been in jail for more than seven years awaiting trial. The longest known case was that of John Chima, who had been in Zomba Prison awaiting trial for murder for 18 years.

The center for legal assistance, an NGO that assists prisoners with legal matters, continued to provide free legal assistance to expedite the trials of detainees, with priority given to the sick and young and those subjected to long trial delays.

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary, and the government generally respected this provision. However, the judicial system was inefficient and handicapped by serious weaknesses, including poor record keeping, a shortage of attorneys and other trained personnel, heavy caseloads, and lack of resources.

The law provides for a high court, a supreme court of appeal, and subordinate magistrate courts. A constitutional court (a panel consisting of three high court judges with jurisdiction over constitutional matters) also existed. The chief justice is appointed by the president and confirmed by the national assembly. The president appoints other justices, following recommendations by the judicial service commission. All justices are appointed to serve until the age of 65 and may be removed only for incompetence or misbehavior, as determined by the president and a majority of the national assembly. The military has courts martial but no military or security tribunals.

The Malawi defense force (MDF) maintains a courts martial system. Military personnel accused and tried by courts martial are afforded the same rights as persons accused in civil criminal courts. The MDF courts martial can try civilians in cases concerning military operations; however, this has not occurred.

Trial Procedures.—Defendants are presumed innocent. By law defendants have the right to a public trial but not to a trial by jury. The Ministry of Justice continued the indefinite suspension of the use of jury trials in murder cases, although juries are used in other types of cases. The public and press accepted the suspension, since murder suspects had sometimes been incarcerated for years awaiting trial by jury. Defendants have the right to be present at their trial, are entitled to an attorney, and if indigent, to have an attorney provided at state expense. Defendants have the right to present and challenge evidence and witnesses. The law extends the above rights to all persons.

All persons have the right of appeal; however, in practice appeals were often delayed for years and sometimes never addressed by the higher court.

The judiciary's budgetary and administrative problems effectively denied expeditious trials for most defendants, although improvements were made due to increased staffing. The Department of Public Prosecutions had 15 prosecuting attorneys, an increase of two from 2008, and 11 paralegals. The paralegals served as lay prosecutors and prosecuted minor cases in the magistrate courts. Retention of government attorneys was a problem.

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

Civil Judicial Procedures and Remedies.—There is an independent and impartial judiciary in civil matters, and citizens have access to a court to bring lawsuits seeking damages for, or cessation of, human rights violations. The law provides for administrative remedies as well as judicial remedies for alleged wrongs; however, a lack of resources and legal professionals restricted the number of cases pursued and resulted in a large backlog. During the year the MHRC received 132 complaints of limited access to justice and 26 complaints of unfair administrative procedures.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and law prohibit such actions, but the government did not always respect these prohibitions in practice.

On December 2, the parliament passed a law legalizing warrantless searches. The MHRC reported that in the period prior to the change, police regularly entered homes of poorer citizens using special police search orders, which were issued by a supervisory police officer rather than by a court.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, at times the government attempted to limit these rights. Journalists sometimes practiced self-censorship, especially at government-owned media outlets such as the Malawi Broadcast Corporation (MBC) and Television Malawi (TVM).

The independent media were active and expressed a wide variety of views; however, the government imposed some restrictions. A broad spectrum of political opinion was available in the country's newspapers. There were 11 independent newspapers, including two dailies, one triweekly, and four weeklies.

There were 22 private radio stations that broadcast only in urban areas. MBC dominated the radio market with its two stations, transmitting in major population centers. State-owned TVM was the sole television broadcaster. In the period prior to the May national elections, the news coverage and editorial content of MBC and TVM clearly favored the president and his party; coverage of other political parties was more critical, and they received less airtime. Private broadcaster Joy Radio was closed by police on polling day to prevent it from covering the elections.

Journalists were subjected to arrest, harassment, and intimidation due to their reporting.

For example, on February 24, in the period prior to the national elections, police arrested Mzimba Community Radio Station manager Sam Lwara, accusing him of violating the Communications Act. The charges were later amended to conduct likely to cause a breach of peace. Lwara was released on bail, and the case was pending at year's end.

On May 23, police arrested Gilbert Tembo, an editor employed by the information department at the Ministry of Information and civic education, accusing him of being in possession of seditious materials. Tembo was released on bail and the case was pending at year's end.

On July 7, Gabriel Kamlomo, Zodiak Broadcasting Station editor, was arrested for publishing false material likely to cause public alarm and fear. Kamlomo was released on bail, and the case was pending at year's end.

There were no developments in the 2008 arrest cases of journalists James Mphande and Mike Chipalasa.

Internet Freedom.—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to International Telecommunications Union statistics for 2008, approximately 2 percent of the country's inhabitants used the Internet.

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

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The constitution and law provide for freedom of assembly, and the government generally respected this right in practice.

No action was taken against police responsible for the use of excessive force to disperse demonstrators in 2007 and 2008.

Freedom of Association.—The constitution and law provide for freedom of association, and the government generally respected this right. The government required all organizations, including political parties, to register with the ministry of justice, and registration was routinely granted.

c. Freedom of Religion.—The constitution and law provide for freedom of religion, and the government generally respected this right. Churches continued to exert significant political influence, particularly in rural areas.

There are no separate requirements for the recognition of religious groups, but they must register with the government. Foreign Christian missionaries experienced occasional delays in renewing employment permits; however, this appeared to be the result of bureaucratic inefficiency rather than policy.

Societal Abuses and Discrimination.—There were no reports of societal violence, harassment, or discrimination aimed at religious groups. However, there were anecdotal complaints from religious minorities regarding limited employment and educational opportunities.

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

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution and laws provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

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

Protection of Refugees.—The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. Its laws provide for the government's granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The government generally provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular group, or political opinion.

According to the Office of the UN High Commissioner for Refugees (UNHCR), there were two attempts of refoulement during the year. Since the UNHCR was unable to verify if the two individuals affected were under threat in their respective countries of origin, it classified the incidents as "attempts."

On August 30, Congolese national John Badesire Mitterand, who had been in country as a recognized refugee since 2004, was deported to the Democratic Republic of the Congo. The UNHCR was given no official explanation for the deportation. Upon his return to Malawi on December 14, Mitterand was arrested and, despite a court order staying another deportation until his case could be reviewed, deported again on December 25.

Also on August 30, Ethiopian national Abute Bashayu was deported to Ethiopia. Bashayu, who had been in country since February 2008, had an asylum application pending at the time of his deportation. The UNHCR was given no official explanation for the deportation.

By law the government does not accept refugees for permanent settlement. The government cooperated with the UNHCR in assisting refugees and asylum seekers but restricted refugees' ability to move freely and work outside of refugee camps.

The government provided temporary protection to approximately 752 individuals during the year who may not qualify as refugees under the 1951 Convention or the 1967 Protocol.

While no legal framework existed, the government allowed refugees to seek both employment and educational opportunities, although it restricted these activities outside the refugee camps. Refugees with professional degrees, especially those with medical training, were given work permits to pursue employment outside the camps. The UNHCR, NGOs, and the government collaborated to provide education to children in refugee camps.

Security forces sometimes intimidated refugee and asylum seekers. Police routinely performed sweeps of refugees found illegally outside of camps and returned them to camps. Local citizens often accused refugees of theft and demanded their deportation.

In July a mob reportedly killed an Ethiopian refugee accused of stealing maize from a village near the Dzaleka camp. By year's end no arrests had been made.

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

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

Elections and Political Participation.—International election observers found the May presidential and parliamentary election an improvement on the 2004 elections; however, they identified some shortcomings. In particular, observers criticized the inequitable access to the state-owned media granted to opposition parties and candidates. Opposition parties accused the government of using public funds for campaign purposes.

The executive branch exerted considerable influence over the unicameral national assembly, which followed a hybrid parliamentary system loosely based on both the British model and a presidential-parliamentary model; all cabinet ministers were also members of the national assembly but are not required to be.

Although the government did not prevent the activities of opposition political parties, the parties alleged that the government encouraged opposition party divisions. Sporadic, minor violence occurred between supporters of rival political parties.

In 2005 the five-year term of district and municipal assemblies ended as stipulated by law. Constitutionally mandated local government elections were scheduled for May 2005, but the government did not hold the elections, citing a budgetary shortfall related to a food crisis. Civil society criticized the government for delaying the elections. In November the parliament amended the constitution, placing the timing of local elections in the hands of the president. These elections were scheduled for 2010. The future structure of local government itself was expected to be addressed in the January 2010 session of parliament.

There were 42 women in the 193-seat national assembly and 10 women in the 42-member cabinet, including the country's first female vice president. Women constituted approximately 25 percent of the civil service. There were three female justices among the 27 supreme and high court justices.

There were six members of minorities in the national assembly.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government had some success prosecuting cases; however, full implementation of the law continued to be a challenge. The World Bank's 2008 Worldwide Governance Indicators reflected that corruption was a serious problem. Public sensitivity to corruption increased due to media campaigns. President Mutharika spoke out publicly against corruption and cautioned government officials to refrain from questionable activities. Efforts to combat corruption and promote transparency continued.

The Malawi Anti-Corruption Bureau (ACB) functioned under a new director after an extended period without a permanent head. The ACB continued to bring cases and was generally seen as competent and effective, but it continued to be hampered by a lack of resources.

Indictments of former high-level government officials proceeded slowly. Many of the cases were delayed in the courts due to legal challenges by the accused. Surveys indicated that while a majority of citizens had been exposed to government anticorruption messages, only 15 percent knew how to report corruption to the ACB. The volume and quality of complaints increased during the year; investigations by the media into alleged corruption also increased. The ACB had achieved 60 corruption convictions since 2004.

The ACB's appeal of the 2008 magistrate court acquittal of Kandi Padambo, former head of the Electricity Supply Commission, was pending at year's end.

There were no further developments in the 2008 case of Information Minister Patricia Kaliati, who was accused of accepting vehicles from a foreign company in return for a concession at a national park.

A final verdict in the 2007 corruption case against former president Muluzi was pending at year's end.

The law provides for public access to government information, and the government granted access to citizens and noncitizens, including foreign media.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A variety of domestic and international human rights groups generally operated without government restriction, training civic educators, advocating changes to ex-

isting laws and cultural practices, and investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

The MHRC, an independent government agency, is charged with monitoring, auditing, promoting, and investigating violations of human rights. Continued resource shortfalls resulted in a backlog of cases, delayed production of reports, and hindered human rights monitoring. The MHRC reported that it received 560 complaints of human rights violations during the year. The government cooperated with international governmental organizations and permitted visits by UN representatives and other organizations.

UN agencies and international NGOs had offices in the country and had access to investigate human rights abuses. The ICRC delegation for southern Africa based in Harare, Zimbabwe, also covered the country.

The Office of the Ombudsman is mandated by law to investigate and take legal action against government officials responsible for human rights violations and other abuses. The executive secretary of the Ombudsman's Office stated that government agencies usually cooperated in responding to requests for information. While activities of the ombudsman were subject to judicial review, he operated without government or party interference.

The Office of the Ombudsman continued to lack adequate resources, having only 15 staff members to handle the investigations process for the entire country, and some recommendations were referred to parliament after being ignored or challenged by government departments and agencies. The ombudsman received fewer complaints during the year, due to the public's rising awareness that some complaints should be directed to other government agencies including the ACB, MHRC, and the Public Service Commission.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law specifically provides for equal rights for women, forbids discrimination based on language or culture, race, disability, or social status and provides for equality and recognition before the law for every citizen. However, the capacity of government institutions to ensure equal rights for all citizens was limited.

Women.—The law criminalizes rape with a maximum penalty of life imprisonment. Spousal rape is not explicitly mentioned but could be prosecuted under the same rape laws. The government generally enforced the law effectively, and convicted rapists routinely received prison sentences. Data on the prevalence of rape or spousal rape and conviction figures were unavailable; however, press reports of rape arrests and convictions were an almost daily occurrence; they suggested that rape was a widespread problem.

The judiciary continued to impose penalties on persons convicted of rape, including up to 14-year prison sentences for child rape and assault.

For example, on February 12, Kingstone Kambalame was sentenced to 12 years' imprisonment for raping a 12-year-old.

In March law professor Kandako Mhone was arrested for raping a minor repeatedly since 2006. The case was pending at year's end.

On July 12, Paul Bobi was sentenced to five years in prison after pleading guilty to raping a 14-year-old girl.

Domestic violence, especially wife beating, was common, although women seldom discussed the problem openly, and victims rarely sought legal recourse. Legal experts and human rights workers attributed victims' reluctance to report their abusers to economic dependence on the abuser, lack of awareness of their legal rights, and fear of retribution and ostracism. The law provides a maximum penalty of life imprisonment for domestic violence. The law also recognizes that both men and women can be perpetrators as well as victims of domestic violence. Police regularly investigated cases of rape and sexual assault but did not normally intervene in domestic disputes. Police victims support units provided shelter to some abuse victims and dealt with human rights and gender-based violence, but officers' capacity to assist and document cases was limited.

Prostitution is legal and prevalent around hotels and bars in urban and tourist areas; however, the law prohibits living off wages earned through prostitution, owning a brothel, or forcing another person into prostitution. Loitering was the main charge under which prostituted women were arrested, resulting usually in small fines.

Sexual harassment is not specifically prohibited by law, but it can be prosecuted under existing sections of the penal code, such as indecent assault on a female, which carries up to a 14-year prison sentence, or insulting the modesty of a woman, which is a misdemeanor punishable by one year in jail. There was no available data on the extent of sexual harassment or effectiveness of government enforcement.

The government recognized the right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children. Health clinics and local NGOs were permitted to operate freely in disseminating information on family planning under the guidance of the Ministry of Health. There were no restrictions on the right to use contraceptives, but relatively few citizens had access to them. The government provided free childbirth services, but these services were unevenly distributed due to limited access to hospitals and other medical facilities in rural areas. Due to a shortage of doctors, nurses and midwives were a critical component of prenatal and postnatal care. Men and women were entitled to equal access to diagnosis and treatment of sexually transmitted infections, including HIV.

Under the law women have the right to full and equal protection and may not be discriminated against on the basis of gender or marital status, including in the workplace; however, discrimination against women was pervasive, and women did not have opportunities equal to those available to men. Women had significantly lower levels of literacy, education, formal and nontraditional employment opportunities, and access to resources to increase agricultural productivity.

Women often had less access to legal and financial assistance, and widows often were victims of discriminatory and illegal inheritance practices in which most of an estate was taken by the deceased husband's family. Women usually were at a disadvantage in marriage, family, and property rights; however, awareness of women's legal rights continued to increase, and women began to speak out against abuse and discrimination. Households headed by women were represented disproportionately in the lowest quarter of income distribution. A total of 52 percent of full-time farmers were women; however, they had limited access to agricultural extension services, training, and credit. Gender training for agricultural extension workers and the gradual introduction of rural credit programs for women increased; however, few women participated in the limited formal labor market, where they constituted less than 5 percent of managerial and administrative staff.

The law provides for a minimum level of child support, widows' rights, and maternity leave; however, only individuals who could utilize the formal legal system benefited from these legal protections. In a few isolated areas, a widow was sometimes forced to have sex with in-laws as part of a culturally mandated "sexual cleansing" ritual following the death of her husband. In some cases she was "inherited" by a brother-in-law or other male relative. Although there are no laws specifically prohibiting these practices, the government and civil society continued efforts to abolish them by raising awareness concerning the inherent dangers of such behavior, including the risk of HIV/AIDS transmission.

The government addressed women's concerns through the Ministry of Gender, Child Development, and Community Development.

Children.—Citizenship can be derived at birth under the concept of *jus soli*—birth within the country—or *jus sanguinis*—from one's parents. In 2007 the government launched the pilot phase of the national registration and identification system, the first step in the creation of a national identification system to provide for mandatory registration of births. The system had not been fully implemented by year's end, and until it is implemented, there is no requirement for registration of births. However, there were no reports of discrimination or denial of services due to lack of birth registration.

The government provided free primary education for all children, although education was not compulsory. However, families were responsible for paying book fees and purchasing uniforms. Students from poor families had access to a public book fund. Girls, especially in rural areas, have historically been unable to complete even a primary education and therefore were at a serious disadvantage in finding employment.

Child abuse remained a serious problem. The press reported a significant number of cases of sexual abuse of children, including arrests for rape, incest, sodomy, and defilement.

A July 2008 report from the Mzuzu police victims support unit indicated that abduction, child abuse, and child rape cases had risen during the year. The Church of Central Africa, Presbyterian, paralegal department also reported an increase in child abuse and defilement cases.

A 2008 study by the safe schools program in Machinga found that 90 percent of girls and 47 percent of boys in primary schools experienced some form of violence, including sexual touching by other students, sexual abuse by teachers, corporal punishment, and verbal and psychological abuse.

Abusive practices, including the secret initiation of girls into their future adult roles, were widespread. In a few traditional communities, girls averaging 12 years of age were forced to have sexual relations with older men as part of such initiation rites. "Kupimbira," a practice that allows a poor family to receive a loan or livestock

in exchange for daughters of any age, still existed in some areas. The MHRC expressed concern over reports of parents forcing their daughters into marriages for food.

The law does not specifically prohibit female genital mutilation (FGM), and it was practiced by a few small ethnic groups. In most cases FGM was performed on girls between 10 and 15 years of age, less often on 16 to 20 years. A joint government and UN Children's Fund awareness campaign against harmful cultural practices affecting children included the subject.

The widespread belief that children were unlikely to be HIV positive and that sexual intercourse with virgins can cleanse an individual of sexually transmitted diseases, including HIV/AIDS, contributed to the sexual exploitation of minors.

The Ministry of Gender, Child Development, and Community Development undertook various activities to enhance protection and support of victims. The ministry trained and paid small stipends to more than 800 community child protection personnel who worked nationally to identify victims of child abuse, underage labor, and trafficking and referred cases to district social welfare offices or the police.

The trafficking of children for sexual purposes was a problem, and child prostitution for survival without third-party involvement also occurred.

A few charitable organizations attempted to reduce the number of child beggars in urban areas; however, the problem of street children remained serious, as the number of orphans whose parents died from HIV/AIDS increased. Extended family members normally cared for such children and other orphans.

Trafficking in Persons.—The law does not prohibit specifically trafficking in persons, and women, children, and men were trafficked to, from, through, and within the country. The government attempted to combat trafficking using existing laws. Although the age of sexual consent is 14, there is no age specified for the protection of minors from sexual exploitation, child prostitution, or child pornography.

The country is a source, transit, and destination point for women and children trafficked for sexual purposes locally and to brothels abroad, particularly in South Africa. Victims trafficked to South Africa were typically between 14 and 24 years old and were recruited with false offers of marriage, study, or employment. There were also several documented cases of young boys and men being trafficked to Tanzania. For example, in July a group of 29 trafficked Malawian men and boys were found to be working in the fishing industry in the Lake Rukwa district of Tanzania. Child trafficking for agricultural work took place around borders with Zambia and Mozambique. Also, children and a smaller number of women from Zambia, Mozambique, Tanzania, Burundi, and Zimbabwe were trafficked to Malawi for forced labor and commercial sexual exploitation.

Poverty and low educational levels contributed to such exploitation. Traffickers involved in land border trafficking to South Africa and Tanzania were typically long-distance truck drivers and minibus operators. Local businesswomen, who also travel regularly to Tanzania, South Africa, and other neighboring countries to buy clothing items for import, were identified as traffickers as well. Children were primarily trafficked internally for agricultural labor but also for cattle herding, domestic servitude, commercial sexual exploitation, and to perform menial tasks for small businesses.

A study issued in 2008 by the center for social research and Norwegian church aid found that between 500 and 1,500 women and children were trafficked within the country annually. Approximately 35 percent of those trafficked were children between the ages of 14 and 18.

The penal code contains several provisions relating to prostitution and indecency that the government has used to prosecute traffickers. During the year the government prosecuted child traffickers; most of the cases involved trafficking of children for agricultural labor and cattle herding.

International trafficking was done on valid travel documents obtained through unlawful means. The country's easily forged passport was used regularly by traffickers; the government continued attempts to remedy the misuse by recalling the passports and issuing a new type with enhanced security features. Trafficking occurred at both unmonitored crossing points and official points of entry.

Some convicted child traffickers were sentenced to prison or required to pay fines; however, trafficking was usually treated as a misdemeanor, and perpetrators often paid only a small fine.

Police and the Ministry of Gender, Child Development and Community Development handled cases brought to their attention and provided some services for victims, including counseling and reintegration assistance. The ministry repatriated victims to their home villages. Children were resettled with their families and most offenders were fined.

While the government continued to implement a multiyear strategy to protect vulnerable children from exploitation, it did not provide specific funding to combat trafficking in persons. There was no reportable progress on the development of a nationwide, interministerial plan to identify the extent of trafficking and possible solutions.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The Employment Act prohibits discrimination in employment; however, there is no comprehensive law governing discrimination against persons with disabilities. The law provides for the support of persons with disabilities through greater access to public places, fair opportunities in employment, and full participation in all spheres of society; however, extremely limited resources prevented the government from protecting these rights in practice. Reported violations were taken seriously, and the president publicly declared that students with disabilities should have equal access to education and other government services. The government has not mandated accessibility to buildings and services for persons with disabilities.

The Ministry of Persons with Disabilities and the Elderly is responsible for protecting the rights of persons with disabilities. There were both public and privately supported schools and training centers that assisted persons with disabilities. There also were several self-supporting businesses run by and for persons with disabilities. The Malawi Rural Development Fund provided loans to persons with disabilities to support these activities.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Homosexual activity is defined as “carnal knowledge of any person against the order of nature.” It is illegal and is punishable by up to 14 years in prison in addition to corporal punishment. On December 28, two men were arrested in Blantyre and charged with illegal carnal knowledge and committing acts of “gross indecency with another male person.” The men were denied bail and were in jail awaiting trial at the end of the year.

Societal violence and discrimination based on sexual orientation occurred. The Center for Development of the People (CEDEP) reported that two cases of violence resulting in serious injury were perpetrated against gay men during the year. The victims did not report the attacks to police.

A 2008 study by CEDEP found that approximately 34 percent of gay men in the country had been blackmailed or denied services such as housing or healthcare due to their sexual orientation. Additionally, 8 percent of those surveyed said they had been beaten by police or other security forces due to their sexual orientation.

Other Societal Violence or Discrimination.—Societal discrimination against persons living with HIV/AIDS remained an issue. Many individuals preferred to keep silent about their health rather than seek help and risk being ostracized, but campaigns by the government and NGOs to combat the stigma were having some success. The national AIDS commission stated that discrimination was a problem in both the public and private sectors.

Section 7. Worker Rights

a. The Right of Association.—The law allows workers, except for army personnel and police, to form and join trade unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice; however, union membership was low due to the small percentage of the workforce in the formal sector, the lack of awareness of worker rights, and resistance on the part of many employees to joining unions. Union leaders estimated that 12 percent of the formal sector workforce belonged to unions; however, accurate statistics were not available. Employers, labor unions, and the government lacked sufficient knowledge of their legitimate roles in labor relations and disputes, which limited their effectiveness in implementation and enforcement of the law. The law provides for unions to conduct their activities without government interference.

Unions must register with the Registrar of Trade Unions and Employers' Organizations in the Ministry of Labor, and registration was granted routinely.

The law allows members of a registered union to strike or go through a formal mediation process overseen by the Ministry of Labor, and workers exercised this right. A strike can occur only after all settlement procedures established in a collective agreement and conciliation efforts have failed. Laws do not specifically prohibit retaliation against strikers. There is no prohibition on actions against unions that are not registered. Members of a registered union in “essential services” have a limited right to strike. Essential services are defined as services whose interruption

would endanger the life, health, or personal safety of the whole or part of the population, as determined by the industrial relations court (IRC).

Arbitration rulings were legally enforceable; however, in practice, due to lack of funding and a heavy case backlog, the IRC could not monitor cases or adequately enforce the laws.

b. The Right to Organize and Bargain Collectively.—Unions have the right to organize and bargain collectively, and the government protected this right. The law requires that at least 20 percent of employees (excluding senior managerial staff) belong to a union before it can engage in collective bargaining at the enterprise level, and at least 15 percent union membership for collective bargaining at the sector level. The law provides for the establishment of industrial councils in the absence of collective agreements for sector-level bargaining. Industrial council functions included wage negotiation, dispute resolution, and industry-specific labor policy development. The law was not effectively implemented due to lack of human and financial resources.

There were no reports of antiunion discrimination.

A total of 24 firms held licenses to operate under export processing zone (EPZ) status, and 20 were operational. There are no special laws or exemptions from regular labor laws in export processing zones; however, many companies in the EPZs resisted union activity, and union organizers stated they had little access to workers in the EPZs.

c. Prohibition of Forced or Compulsory Labor.—The government prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred. Forced labor is punishable by a maximum fine of 10,000 MWK (\$68) or two years' imprisonment. In practice punishments were almost always limited to fines, and the modest fines imposed were not effective in discouraging labor violations.

Although the Ministry of Labor reported no cases of forced labor, forced and bonded labor involving entire families occurred under the tenancy system. Tobacco plantation tenants had exclusive arrangements, often unwritten, with the estate owners to sell their crop and to buy inputs such as fertilizer, seed, and often food. These costs, in addition to rent charges, often were greater than the amount of money received from tobacco sales, leading to a situation of debt and bonded labor to repay the input and other costs.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law sets the minimum age for employment at 14 years of age, and children between the ages of 14 to 18 may not work in jobs that are considered hazardous or that interfere with their education; nevertheless, child labor was a problem.

In June 2008 the Ministry of Labor stated that more than 1.4 million children were engaged in child labor. A study in Thyolo found 41 percent of children under the age of 15 engaged in at least part-time work. Seventy-eight percent of children between the ages of 10 and 14 living on tenant farms worked at least part-time with their parents on the farm.

Child labor was common on tobacco farms, subsistence farms, and in domestic service. Many boys worked as vendors, and young girls in urban areas often worked outside of their families as domestic servants, receiving low or no wages. Child trafficking for agricultural work took place both internally and across borders with Zambia and Mozambique, and to Tanzania to work in the fishing industry.

A report issued by Plan International in June stated that children working in the tobacco industry were being exposed to high levels of nicotine poisoning, equivalent to smoking 50 cigarettes a day. The government disputed the report, arguing that Plan International's claim that 78,000 children worked in the tobacco industry was greatly inflated.

There were no further developments in the October 2008 arrest of Lilongwe restaurant owner Mohamed Abed Ali and his employee Petro Kandindi for hiring four boys to clean a septic tank used by the restaurant.

Police and ministry of labor officials were responsible for enforcing child labor laws and policies; however, labor inspectors do not have law enforcement capabilities and must cooperate with the police to pursue violators. The law specifies a maximum fine of 20,000 MWK (\$136) or five years' imprisonment for violations.

The ministry continued to conduct child labor law enforcement courses for district labor officers, district social welfare officers, police, and district magistrate court officers. During the year the ministry continued inspections, particularly on agricultural estates. There were 31 district labor officers and an estimated 150 labor inspectors at year's end. There was no information available on the number of inspections carried out during the year.

The labor ministry youth committees in rural areas continued to monitor and report on child labor. Despite these efforts enforcement by police and ministry inspectors of child labor laws was hindered by lack of funding.

e. Acceptable Conditions of Work.—The Ministry of Labor sets separate urban and rural minimum wage rates based on recommendations of the tripartite wage advisory board (TWAB), composed of representatives of labor, government, and the private sector. However, poor functioning of the TWAB resulted in delayed and inadequate wage rate revisions. The urban minimum was 142 MWK (\$0.97) per day; in all other areas, it was 105 MWK (\$0.72) per day. Minimum wage rates did not provide a decent standard of living for a worker and family. Official minimum wages apply only to the formal sector. Wage earners often supplemented their incomes through farming activities. The Ministry of Labor lacked the resources to enforce the minimum wage effectively. However, the minimum wage was irrelevant for most citizens, who earned their livelihood outside the formal wage sector. There was no exception for foreign or migrant workers.

The maximum legal workweek is 48 hours, with a mandatory weekly 24-hour rest period. The law requires payment for overtime work and prohibits compulsory overtime. In practice these standards were not effectively enforced, and employers frequently violated statutory time restrictions.

The law includes extensive occupational health and safety standards; however, ministry enforcement of these standards was poor.

Workers, particularly in industrial jobs, often worked without basic safety clothing and equipment. Workers dismissed for filing complaints about workplace conditions have the right to file a complaint at the labor office or sue the employer for wrongful dismissal. Workers have the right to remove themselves from dangerous work situations without jeopardy to continued employment; however, given the low level of education of most workers and the high level of unemployment, workers were unlikely to exercise this right.

The law protects foreign workers in correct legal status. Illegal foreign workers were subject to deportation.

MALI

Mali, with a population of approximately 12.6 million, is a constitutional democracy. International and domestic observers characterized the April 2007 presidential election, which resulted in the reelection of President Amadou Toumani Toure, and the July 2007 legislative elections as generally free and fair; however, there were some administrative irregularities. The north experienced periodic violence involving Tuareg rebels, ethnic violence, and the terrorist organization al-Qaida in the Islamic Maghreb (AQIM). While civilian authorities generally maintained effective control of the security forces, there were instances in which elements of the security forces acted independently.

The government generally respected its citizens' human rights; however, there were problems, including the arbitrary or unlawful deprivation of a life, police abuse of civilians, poor prison conditions, arbitrary detention, lengthy pretrial detention, prolonged trial delays, executive influence over the judiciary, lack of enforcement of court orders, restrictions on freedom of speech and assembly, isolated cases of fraud in communal elections, official corruption and impunity, domestic violence and discrimination against women, female genital mutilation (FGM), trafficking in persons, societal discrimination against black Tamacheks, discrimination based on sexual orientation, societal discrimination against persons with HIV/AIDS, slavery-like practices and hereditary servitude relationships between ethnic groups, and child labor.

Tuareg rebels, AQIM, and ethnic factions committed abuses against civilians in the north.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—In contrast to 2008, there were no reports that the government or its agents committed any politically motivated killings; however, there was one report of a killing by a national guardsman.

On July 14, outside of Kita, national guardsman Lassine Goita shot minibus driver Sountou Koumba Sissoko for allegedly failing to stop at a checkpoint. The driver later died as a result. The next day widespread rioting occurred in Kita in reaction to the killing. Youth burned and looted public buildings as well as set fire to government vehicles. Security forces were deployed to Kita to restore order. The govern-

ment arrested Goita as well as 35 rioters, and the National Guard dismissed Goita from its ranks. At year's end, Goita and the rioters remained in detention, and their cases were pending before an investigative judge.

The investigation into the November 2008 killing of one person and the injuring of six others in Lere by troops from the National Guard Mehariste (camel back) Unit of Lere resulted in a finding by the government commission of inquiry that the guardsmen had not used excessive force.

There were no developments in the April 2008 killings of two Tuaregs, Commandant Barka ag Cheikh and his driver Mohammed ag Moussa, or in the 2007 death of Youssouf Dembele.

b. Disappearance.—There were no reports that the government committed politically motivated disappearances.

The terrorist organization AQIM held persons hostage during the year (see section 1.g.).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution and law prohibit such practices; however, there were occasional reports that police abused civilians, including the use of excessive force to disperse a demonstration.

There were no developments in the September 2008 case of several Congolese accorded refugee status by the UN high commissioner for refugees (UNHCR), whom Malian police allegedly arrested, beat, and then released the same day.

Prison and Detention Center Conditions.—Overall prison conditions remained poor. Prisons continued to be overcrowded. For example, the central prison in Bamako housed 1,825 prisoners in a facility designed to hold 400. The Sikasso Prison held 178 prisoners in a facility built for 50. In addition, medical facilities were inadequate and food supplies were insufficient. Inadequate sanitation and medical facilities posed serious threats to health.

In Bamako, men and women were placed in separate prisons, although both male and female juvenile offenders were held in the women's prison. Outside the capital, men, women, and juveniles were held in separate cells within the same prison. Arrested individuals may be held for up to 72 hours in police stations, where there are no separate holding areas for men and women. Pretrial detainees were held with convicted prisoners.

The government permitted prison visits by human rights monitors; however, non-governmental organizations (NGOs) and other monitors were required to submit a request to the prison director, who then forwarded it to the Ministry of Justice. Approvals, which took up to one week, were routinely granted, but the week delay hindered the ability of monitors to ascertain if there were human rights violations. Several NGOs, including the Malian Association of Human Rights and the Malian Association of Women Lawyers (AJM), visited prisoners and worked with female and juvenile prisoners to improve their conditions.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention; however, there were reports that this occurred.

In May the Supreme Court overturned the 2007 conviction of bank chief executive officer (CEO) Mamadou Baba Diawara and investment company CEO Ismaila Haidara for fraud; however, the minister of justice ordered that they not be released. Diawara remained in prison at year's end. Haidara was released prior to the minister's order reaching the prison where he was held. Authorities arrested the prison warden, Sekouba Doumbia, who released Haidara, and he remained detained at year's end (see section 1.e.).

Role of the Police and Security Apparatus.—Security forces include the army, air force, gendarmerie, National Guard, police, and the General Directorate of State Security (DGSE). The army and air force are under the control of the civilian minister of defense. The National Guard is administratively under the minister of defense; however, it is effectively under the control of the minister of internal security and civil protection. Its responsibilities include maintaining order during exceptional circumstances, such as disasters or riots. The guard also has specialized border security units. The police and gendarmerie are under the Ministry of Internal Security and Civil Protection. Police have responsibility for law enforcement and maintaining order in urban areas, while gendarmes have that responsibility in rural areas. The DGSE has authority to investigate any case and temporarily detain persons at the discretion of its director general; it usually did so only in terrorism and national security cases.

The national police force is organized into districts. Each district has a commissioner who reports to the regional director at national headquarters. The police force was moderately effective but lacked resources and training. Impunity was a problem, and police were often not held accountable for corruption. The gendarmerie

conducted investigations of police officers, although the number of officers disciplined for infractions was not available.

Arrest Procedures and Treatment While in Detention.—Judicial warrants are required for arrest. Bailiffs normally deliver warrants, which stipulate when a person is scheduled to appear at a police station. While persons were usually apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official, there were occasions on which warrants were not based on sufficient evidence.

Detainees are brought before the judiciary and have the right to a lawyer of their choice or a state-provided lawyer if indigent; however, an insufficient number of lawyers—particularly outside of the cities of Bamako and Mopti—often prevented access to legal representation. Detainees were granted prompt access to family members.

In cases involving a monetary debt, the arrested person frequently resolved the case at the police precinct, and the police received a portion of the recovered money.

The law provides that suspects must be charged or released within 48 hours and that they are entitled to counsel; however, in practice detainees were not always charged within the 48-hour period. During May, two magistrate labor unions, the Autonomous Union of Magistrates and the Free Union of Magistrates, as well as the National Union of Clerks of Court (SYNAG) went on strike, claiming that the government failed to comply with an agreement regarding magistrate pay; many criminal suspects were held in excess of the 48-hour period during the strike. Media reports also indicated that, during the strike, some persons were not released after completing their sentences. Suspects must be transferred from a police station to a prison within 72 hours after being arrested; however, in practice detainees were sometimes held more than 72 hours. Limited rights of bail or the granting of conditional liberty exist, particularly for minor crimes and civil matters. On occasion authorities released defendants on their own recognizance.

The law stipulates that charged prisoners must be tried within one year, but this limit was frequently exceeded and lengthy pretrial detention was a problem. Lengthy trial procedures, large numbers of detainees, judicial inefficiency, corruption, and staff shortages contributed to lengthy pretrial detention. Individuals sometimes remained in prison for several years before their cases came to trial. Many individuals lacked the financial resources needed to make bail. Approximately 67 percent of the prison population consisted of persons awaiting trial.

In September the judiciary held the first of a series of special sessions planned by the Ministry of Justice to reduce the case backlog and ease prison overcrowding. Some prisoners awaiting trial were tried; many were found guilty and, having been detained for a period longer than the legal punishment, were sentenced to time served.

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary; however, the executive branch continued to exert influence over the judicial system. Corruption and limited resources affected the fairness of trials. Domestic human rights groups alleged that there were widespread instances of bribery and influence peddling in the courts.

There were problems enforcing court orders.

On March 31, authorities arrested Auditor General Sidi Sosso Diarra for failing to abide by a December 2008 Supreme Court order concerning a personnel dispute in the Office of the Auditor General (OAG). He was released later the same day following intervention by the minister of justice. It was alleged that Diarra's arrest had little to do with the personnel dispute, but was rather in retribution for his role in anticorruption efforts.

On May 27, the Supreme Court's criminal division reversed the convictions of Habitat Bank of Mali CEO Mamadou Baba Diawara and West African Investment Company CEO Ismaila Haidara for fraud. The chief public prosecutor at the Supreme Court, Cheickna Detteba Kamissoko, then issued a routine order to release Diawara and Haidara. Media reports indicated that the court justices may have been bribed to reach this decision and that the court's handling of the case was irregular. For example, the public prosecutor failed to keep the minister of justice apprised of the case's progress, the case was added to the docket at the last minute while the country's president was out of the country, and the release order was signed faster than normal. Minister of Justice Maharafa Traore instructed authorities not to enforce the court's decision. Diawara was not released, but Haidara had already been released prior to the minister of justice's order reaching the prison. Minister of Justice Traore also ordered the chief public prosecutor to file an appeal of the decision; however, the law does not provide a process for appealing a Supreme Court decision. On June 3, the president's council of ministers fired Chief Prosecutor

Kamissoko and the Supreme Court's general counsel, Moussa Keita. The minister of justice, in accordance with the law, appointed their replacements. On July 16, authorities arrested Lieutenant Sekouba Doumbia, the warden who released Haidara, after he publically defended his action. At year's end, Diawara and Doumbia remained in detention, while Haidara was reportedly in hiding in Germany.

The minister of justice appoints and may suspend judges, and the Ministry of Justice supervises both law enforcement and judicial functions. The president of the country heads the Council of Magistrates, which oversees judicial activity.

The country has a lower circuit court, a Supreme Court with both judicial and administrative powers, and a Constitutional Court that oversees constitutional issues and acts as an election arbiter. The constitution also provides for the convening of a High Court of Justice to try senior government officials in cases of treason.

The military court system was not operational.

Village chiefs and government-appointed justices of the peace decided the majority of disputes in rural areas. Justices of the peace had investigative, prosecutorial, and judicial functions. In practice, these systems did not provide the same rights as civil and criminal courts.

Trial Procedures.—Except in the case of minors, trials generally were public and juries were used. Defendants have the right to be present and have an attorney of their choice. Court-appointed attorneys are provided for the indigent without charge. Defendants have the right to consult with their attorney, but administrative backlogs and an insufficient number of lawyers, particularly in rural areas, often prevented prompt access. Many persons lacked the financial means to afford an attorney. Defendants and attorneys have access to government evidence relevant to their cases. Defendants are presumed innocent and have the right to confront witnesses, to present witnesses and evidence on their behalf, and to appeal decisions to the Supreme Court. These rights extend to all citizens and all groups.

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

Civil Judicial Procedures and Remedies.—There is an independent and impartial judiciary in civil matters, although corruption in the judicial branch was widespread and the laws are biased against women. There is no separate court system for lawsuits seeking damages for, or cessation of, a human rights violation. There were reports that civil court orders were sometimes difficult to enforce.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and law prohibit such actions, and the government generally respected these prohibitions in practice.

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—The north experienced periodic violence involving Tuareg rebels, ethnic violence, and AQIM.

In January and February, in response to the December 2008 Northern Mali Tuareg Alliance for Change (ATNMC) attack on a military base in Nampala as well as previous repeated attacks by armed Tuareg groups against government forces, government forces launched an offensive against the ATNMC. The offensive contributed to defections among ATNMC leader Ibrahim ag Bahanga's men; Bahanga subsequently fled the country to Libya.

During the year Tuareg rebel groups participated in disarmament ceremonies. For example, on February 13-17, several hundred Alliance for Development and Change members disarmed pursuant to their obligations under the 2006 Algiers Accord.

Persons displaced by attacks by rebels and other armed groups of Tuaregs in 2008 were reported to be returning home.

On January 7, on the road between Gao and Kidal, rebels believed to be associated with the ATNMC carjacked and detained two Malian Electric Company employees for five days. The rebels also briefly held and then released the car's driver and two other passengers, one of whom was a child.

There were unconfirmed reports that government security forces mistreated Tuareg combatants taken prisoner during fighting. On January 15, one Tuareg prisoner died while in government custody.

Sporadic violence between the Ganda-Izo militia, composed of ethnic Peulhs and Songhai, and neighboring Tuareg factions in the area of Ansongo (Gao Region) continued. On January 1 and January 7, grenade attacks in Gao targeted Tuareg leaders and resulted in the death of at least one civilian. On June 12, six Tuaregs were killed in the town of Tandagdagorane when attacked by a group of 14 Peulh and Songhai assailants wielding automatic weapons and grenades. Twelve days later, three Peulhs were killed in an apparent reprisal attack in the town of Fitili. For three days beginning July 24, further attacks in the commune of Tessit caused an additional 16 deaths among the Peulhs. The violence was aggravated by the arrival

of ethnic Peulh nomads from Niger and Burkina Faso seeking to pasture their livestock.

In April authorities released Ganda-Izo leader Amadou Diallo, who was arrested in September 2008 in Niger and then extradited to Mali.

On June 5, a group of Berabiche Arabs, believed to have been led by Lamine Tahar, abducted and held hostage nine elected officials from Timbuktu. The group reportedly wanted to disrupt the selection of representatives for Timbuktu's regional assembly and force an Arab candidate to be named president of the assembly. Three of the hostages were released on June 5, and the remaining six were freed on June 8.

During the year the terrorist organization AQIM killed persons as well as held persons hostage.

On June 10, in Timbuktu, armed assailants, believed to be affiliated with AQIM, assassinated Malian intelligence officer and Berabiche Arab leader Colonel Lamana Ould Bou at his residence.

On January 22, bandits abducted European tourists Edwin Dyer, Marianne Petzold, Gabriella Greitner, and Werner Greiner along the border with Niger and later handed them over to AQIM. AQIM released Petzold and Greitner on April 22, killed Dyer on May 31, and released Greiner on July 12.

There were developments in the case of UN envoy to Niger Robert Fowler, his assistant Louis Guay, and their driver Soumana Moukaila, who disappeared in Niger in December 2008. AQIM held them in Mali, where they were later released. Moukaila was released in March. Fowler and Guay were released on April 22 along with the two European tourists mentioned above.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution and law provide for freedom of speech and of the press. While the government generally respected these rights in practice, there was a report of an individual arrested for publically criticizing the government and of a journalist arrested.

On January 14, the leader of the association Circle for Youth Reflection and Action, Mahamane Mariko, was arrested and held without charge for 28 hours following a press conference in which Mariko criticized government policy in the north and called for the use of force against Tuareg rebels.

The independent media were active and expressed a wide variety of views.

On February 26, Nouhoum Keita, a journalist for Radio Kayira, a network of stations critical of the government, was arrested on charges of fraud. Prior to his arrest, Keita stated on a radio program that he suspected government officials tried to set him up and that he was going to file a lawsuit to learn the identities of those officials. On April 15, authorities released Keita.

There were no developments regarding cases reported in 2008.

Internet Freedom.—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. There were numerous Internet cafes in Bamako, although home access in the capital was limited by cost. Outside of Bamako, there were a few sites where the Internet was available for public use. According to International Telecommunication Union statistics for 2008, approximately 1.6 percent of the country's inhabitants used the Internet.

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

b. Freedom of Peaceful Assembly and Association.—*Freedom of Assembly.*—The constitution and law provide for freedom of assembly; however, at times the government did not respect this right in practice.

On April 13, police prevented a homosexual group from assembling on the margins of a conference in Bamako concerning HIV/AIDS.

On the night of February 16-17, following days of rioting in the Bamako neighborhood of Banconi Salembougou, police allegedly used excessive force and tear gas to disperse demonstrators, resulting in numerous injuries. The confrontation stemmed from a land dispute in which a court ordered a popular neighborhood leader to vacate a property. The leader and his supporters occupied the disputed property, and protesters reportedly blocked roads as well as damaged and looted property.

There were no developments in the October 2008 incident of police using excessive force to disperse protesters in the Bamako neighborhood of Medina Coura.

Freedom of Association.—The constitution provides for freedom of association, although the law prohibits associations deemed immoral. The government generally respected freedom of association during the year.

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

The government required that all public associations, including religious associations, register; the process was routine and not burdensome. Traditional indigenous religious groups were not required to register.

Societal Abuses and Discrimination.—The Jewish population was estimated at fewer than 50, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. Police routinely stopped and checked both citizens and foreigners to restrict the movement of contraband and to verify vehicle registrations. Some police and gendarmes extorted bribes.

The government cooperated with the UNHCR and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, asylum seekers, and other persons of concern.

The constitution and law specifically prohibit forced exile; the government did not use it.

Internally Displaced Persons (IDPs).—By midyear, large numbers of the several thousand IDPs who were displaced in Kidal region in 2008 by attacks by Tuareg rebels were reportedly returning home due to increased security.

In June intercommunal violence in Gao Region, notably Ansongo, Tessit, Ouatagouna, Boura, Inmahag, Lellehoy/Tantala, and Baba Sorgos, displaced an estimated 200 families. In Boughessa, an estimated 400 families were displaced due to drought and the impact of earlier confrontations between the army and Tuareg rebels.

The government provided some assistance to IDPs, allowed the International Committee of the Red Cross (ICRC) access to IDPs, and permitted IDPs to accept assistance provided by humanitarian organizations. The distances involved, difficult local terrain, land mine concerns, and rebel attacks early in the year hampered assistance efforts. The government did not attack or target IDPs or forcibly return or resettle them.

Protection of Refugees.—The country is party to the 1951 Convention relating to the Status of Refugees, the 1967 Protocol relating to the Status of Refugees, and the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. Its laws provide for the granting of asylum or refugee status and the government has established a system for providing protection to refugees. In practice, the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. A national committee in charge of refugees operated with institutional assistance from the UNHCR.

The government provided temporary protection to individuals who may not qualify as refugees and provided it to 34 persons during the year.

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

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

Elections and Political Participation.—In 2007 voters elected President Amadou Toumani Toure to a second five-year term with 71 percent of the vote. Legislative elections were also held in 2007. Domestic and international observers characterized the 2007 elections as generally free, fair, and without evident fraud, but there were administrative irregularities.

On April 26, voters participated in local elections to select members of the country's 703 communal councils. Domestic and international observers characterized the elections as generally free and fair; however, some isolated administrative irregularities and instances of fraud were reported. For example, serious cases of fraud were reported in Ber and Tarkint. Prior to the election, political parties expressed concern regarding the accuracy of voter registration lists. In Bamako, on election day, authorities arrested 94 persons for suspected electoral fraud. Most of the 94 cases involved the possession of stolen voter registration cards. At least 16 of these persons were convicted and sentenced to one to three months in jail; others were

released for lack of evidence. At year's end, all 94 persons had been released, either for lack of evidence or because they had served their sentence.

Political parties generally operated without restrictions or outside interference.

There were 15 women in the 147-member National Assembly. There were six women in the 29-seat cabinet, five women—including the chairperson—on the 33-member Supreme Court, and three women on the nine-member Constitutional Court.

The National Assembly had 15 members from historically marginalized pastoralist and nomadic ethnic minorities representing the northern regions of Gao, Timbuktu, and Kidal. The cabinet also had two members from these minorities.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively and officials frequently engaged in corrupt practices with impunity. Officials frequently extorted money. Corruption in the judiciary was widespread.

The constitution requires the prime minister and other cabinet members to annually submit a financial statement and written declaration of their earnings to the Supreme Court. These documents were not made public.

The Malian Anticorruption Agency (CASA) and the independent OAG are responsible for combating corruption. CASA oversees a number of smaller anticorruption units within various government ministries and reports directly to the presidency.

The OAG's report for 2008 (released in 2009) estimated that approximately 98 billion CFA francs (\$210 million) in revenue had been lost due to fraud and mismanagement, including lost revenue in the Customs Office, the Treasury, and the Social Security Agency. There were no developments with regard to the previous annual reports of the auditor general.

During the year the OAG examined nine entities that were discussed in its 2008 report. The examination found that 74 percent of the auditor general's fraud prevention and financial management recommendations had been implemented in these entities. There were no criminal prosecutions for corruption based on previous annual reports of the auditor general.

There were no developments regarding the case of Ahmed Sow, who resigned from his position as minister of energy, mines, and water in September 2008 due to corruption allegations stemming from his previous role as the director of the EU's Center for Business Development.

The law provides for public access to government information, and the government generally granted such access for citizens and noncitizens, including foreign media. The national budget was available to the public upon request. If an information request is refused, the person who submitted the request can appeal to an administrative court, which must address the appeal within three months.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

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

Major local human rights NGOs included the Collective of Women's Associations and NGOs (CAFO), the AJM, Women and Children Rights Watch (ODEF), the Women and Children's Rights Committee (CADEF), Women and Human Rights, the Mali Human Rights Association (AMDH), the black Tamachek Association (TEMEDT), Mali Enjeu, and ENDA-Tiers Monde. Government officials met with NGOs on a variety of matters.

The government usually cooperated with international organizations and permitted visits by UN representatives and other organizations, such as the ICRC.

The National Commission on Human Rights (CNDH) is part of the Ministry of Justice. The CNDH is an independent institution under the constitution. It did not operate effectively during the year.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law prohibit discrimination based on social origin and status, color, language, gender, or race, but not disability.

Women.—The law criminalizes rape; however, the government did not enforce the law effectively. Only a small percentage of rape cases were prosecuted, and most rape cases were not reported. There is no law specifically prohibiting spousal rape, but law enforcement officials stated that the criminal laws against rape apply to

spousal rape. Police and judicial authorities were willing to pursue rape cases, but stopped if parties reached an agreement prior to trial. Information on the number of abusers who were prosecuted, convicted, or punished was not available.

Domestic violence against women, including spousal abuse, was a problem. Most cases went unreported. Spousal abuse is a crime, but the law does not specifically prohibit domestic violence. Police were reluctant to enforce laws against or intervene in cases of domestic violence. Many women were reluctant to file complaints against their husbands because they feared such allegations would be interpreted as grounds for divorce, were unable to support themselves financially, or sought to avoid social stigma. The government's planning and statistics unit, which was meant to track prosecutions, was not operational. Assault is punishable by prison terms of one to five years and fines of up to 500,000 CFA francs (approximately \$1,071) or, if premeditated, up to 10 years' imprisonment.

The Ministry for the Promotion of Women, Children, and the Family (MPFEF) distributed a guide regarding violence against women for use by health care providers, police, lawyers, and judges. The NGOs Action for the Defense and Promotion of Women Rights and Action for the Promotion of Household Maids operated shelters for abused female domestic laborers.

Prostitution is legal and was common in cities.

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

Women's ability to make decisions regarding reproduction was limited. Women faced pressure to defer to their husbands and family on reproductive issues and often lacked sufficient information. Women often did not have access to contraception and skilled attendance during childbirth, including essential obstetric and postpartum care. Women were equally diagnosed and treated for sexually transmitted infections, including HIV, but access to healthcare for both men and women was limited.

Family law and traditional practices favor men. Women are legally obligated to obey their husbands. Women are particularly vulnerable in cases of divorce, child custody, and inheritance. Women had very limited access to legal services due to their lack of education and information as well as the prohibitive cost.

While the law provides for equal property rights, traditional practices and ignorance of the law prevented women from taking full advantage of their rights. A community property marriage must be specified in the marriage contract. In addition, if the type of marriage was not specified on the marriage certificate, judges presumed the marriage was polygynous. Traditional practice discriminated against women in inheritance matters, and men inherited most of the family wealth.

Women's access to employment and to economic and educational opportunities was limited. According to the National Center for Information on Women and Children, women constituted approximately 15.5 percent of the formal labor force. The government, the country's major formal sector employer, paid women the same as men for similar work. The MPFEF was charged with ensuring the legal rights of women. Women experienced economic discrimination due to social norms that favor men.

Children.—Citizenship is derived from one's father. The government did not register all births immediately, particularly in rural areas.

The constitution provides for free universal education and the law provides for compulsory schooling; however, many children did not attend schools, and parents often had to pay for their children's education as well as provide their uniform and supplies. Girls' enrollment in school was lower than boys' at all levels due to poverty, cultural tendencies to emphasize boys' education, and the early marriage of girls. Other factors affecting school enrollment included distance to the nearest school, lack of transportation, and shortages of teachers and instructional materials.

Members of the black Tamachek community reported that some Tamachek children were denied educational opportunities due to slavery-like practices.

An unknown number of primary school-aged children throughout the country, mostly under age 10, attended part-time Koranic schools. Koranic schools taught only the Koran and were funded by students and their parents. Koranic masters often forced students, known as "garibouts," to beg for money on the streets or work as laborers in agricultural settings.

There were no statistics on child abuse. Most child abuse cases went unreported. Sexual exploitation of children occurred. The police and the social services department under the Ministry for Solidarity and Social Development investigated and intervened in some reported cases of child abuse or neglect; however, the government provided few services for such children.

Female genital mutilation (FGM) was common, particularly in rural areas, and was performed on girls between the ages of six months and six years. Approximately 95 percent of women had been subjected to FGM. The practice was widespread in

most regions with the exception of certain northern areas, occurred among most ethnic groups, was not subject to class boundaries, and was not religiously based. There are no laws specifically prohibiting FGM; however, a government decree prohibits FGM in government-funded health centers. Government information campaigns regarding FGM reached citizens throughout the country, and human rights organizations reported that FGM decreased among children of educated parents.

The marriage code allows girls under the age of 15 to marry if they have parental consent and special permission from a judge. The minimum age for girls to marry without such consent is 15. Underage marriage was a problem throughout the country, with parents in some cases arranging marriages for girls as young as nine. According to local human rights organizations, judicial officials frequently accepted false documents claiming that girls under the age of 15 were old enough to marry.

On August 29, police reportedly arrested Amadou Diallo for planning to marry his 12-year-old daughter to her 50-year-old-cousin. He was released after three days, and the case was sent to the judicial system. The child was sent to live with a female relative.

The law does not specifically address child prostitution. Authorities cited child pornography as a form of indecent assault prohibited under the criminal code. Penalties for indecent assault range from five to 20 years in prison. The country has a statutory rape law that defines 18 as the minimum age for consensual sex. The law is inconsistent with the legal minimum marriage age of 15 and was not enforced.

The police's Division for Protection of Children and Morals sometimes arrested child prostitutes. They were usually released a few hours after their arrest. A 2004 governmental study, which involved 450 interviews, found that the children most at risk for sexual exploitation were girls between the ages of 12 and 18, who worked as street vendors or domestic servants or who were homeless children or the victims of child trafficking. Such exploitation was most prevalent in border zones, towns on transportation routes, and in mining areas. The study noted that most cases of sexual exploitation went unreported and recommended that the country strengthen its laws to protect children.

Trafficking in Persons.—The law prohibits trafficking in children, but does not address trafficking in adults, and there were reports that women and children were trafficked to, from, and within the country.

Persons, including children, were trafficked between Mali and other West African countries, including Burkina Faso, Cote d'Ivoire, Guinea, Senegal, Mauritania, Niger, and Nigeria, for the purposes of forced labor and commercial sexual exploitation. Most child trafficking occurred within the country. Children were trafficked for agricultural work, domestic servitude, begging, gold mining, and prostitution.

The principal traffickers were mostly from West African countries, and included Koranic teachers known as "marabouts", as well as smugglers of a variety of goods. In many cases, parents in rural areas entrusted their children to traffickers, mistakenly believing false assurances that the children would be provided with economic or educational opportunities.

Child trafficking is punishable by five to 20 years' imprisonment. There were no reports of trafficking-related prosecutions during the year.

On June 3, in Niore du Sahel, government officials took Sidamar ag Cherif into custody after he attempted to cross into Mauritania with 16 children and was turned back at the border by Mauritanian officials. The trafficker was released without charges the next day. The NGO ENDA-Tiers Monde provided temporary care for the children and returned them to their families.

On December 17, in Niore du Sahel, officials arrested Sidamar ag Cherif for attempting to cross into Mauritania with eight children without proper travel documents. ENDA-Tiers Monde provided temporary care to the children. Authorities released ag Cherif, and the children were placed back into his custody. According to authorities, ag Cherif had parental consent to take the children to Mauritania. ag Cherif then attempted again to take the children to Mauritania, but Mauritanian authorities turned him away at the border. At year's end, ag Cherif and the children remained in Niore.

There were no developments in the cases of three persons in Kita, who were arrested for trafficking 26 children and then released in June 2008 on their own recognizance; of seven Burkinabe children repatriated in December 2008 after being trafficked by a Koranic school teacher to the country; or of two Ivoirian nationals arrested in 2007 and then released on their own recognizance for trafficking boys from Cote d'Ivoire.

The Ministry for the Advancement of Women, Children, and the Family is charged with coordinating activities to combat trafficking, but it lacked sufficient funding and was not effective. The Ministry of Justice, the Ministry of Territorial

Administration, and the Ministry of Labor and Civil Service also have responsibilities related to combating trafficking.

When requested, the government assisted with international trafficking investigations and the extradition of citizens accused of trafficking in other countries, but there were no such cases reported during the year. The government worked closely with international organizations and NGOs to coordinate the repatriation and reintegration of trafficking victims.

Welcome centers operated by NGOs in Bamako, Kayes, Koulikoro, Mopti, Segou, and Sikasso assisted in returning trafficked children to their families. The MPFEF worked with foreign governments to facilitate repatriation of victims to their countries of origin.

The State Department's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—There is no specific law protecting the rights of persons with physical or mental disabilities in employment, education, access to health care, or in the provision of other state services. There is no law mandating accessibility to public buildings. The Ministry of Social Development, Solidarity, and the Elderly is charged with the protection of the rights of persons with disabilities. The ministry sponsored activities to promote opportunities for persons with disabilities to generate income and also worked with NGOs that provided basic services.

National/Racial/Ethnic Minorities.—Societal discrimination against “black” Tamacheks, often referred to by the label Bellah, continued. Some black Tamacheks were deprived of civil liberties by other ethnic groups due to traditional slavery-like practices and hereditary servitude relationships between certain ethnic groups. Black Tamachek communities in Gao and Menaka also reported systematic discrimination by local officials and others that hindered their ability to obtain identity documents or voter registration cards, locate adequate housing, protect their animals from theft, seek legal protections, obtain education, or access development aid.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—There were no publicly visible lesbian, gay, bisexual, and transgender (LGBT) organizations in the country. The free association of LGBT organizations was impeded by a law prohibiting association “for an immoral purpose”; in 2005 the then governor of the District of Bamako cited this law to refuse official recognition of a gay rights association. On April 13, in Bamako, police prevented homosexual activists from assembling on the margins of a conference concerning HIV/AIDS in the homosexual community. Societal discrimination based on sexual orientation was widespread. There was not official discrimination on the basis of sexual orientation.

Other Societal Violence or Discrimination.—Societal discrimination against persons with HIV/AIDS occurred. The government implemented campaigns to increase awareness of HIV/AIDS and reduce discrimination against those with HIV/AIDS.

Section 7. Worker Rights

a. The Right of Association.—The law allows workers to form or join independent unions of their choice without previous authorization or excessive requirements, and workers exercised these rights. Only the military, the gendarmerie, and the National Guard were prohibited from forming unions. An estimated 95 percent of salaried employees were organized, including teachers, magistrates, health workers, and senior civil servants.

The law allows unions to conduct their activities without interference, and the government respected this right in practice.

Unions have the right to strike, and workers exercised this right. However, the law allows the minister of labor to order arbitration for disputes that may endanger lives, security or health, normal functioning of the economy, or involves a vital professional sector. Civil servants and workers in state-owned enterprises are required to give two weeks' notice of a planned strike and to enter into mediation and negotiations with the employer and a third party, usually the Ministry of Labor and State Reforms. The labor code prohibits retribution against strikers, and the government generally enforced these laws effectively.

b. The Right to Organize and Bargain Collectively.—The law provides for the right to collective bargaining, and workers exercised this right freely. The law does not prohibit antiunion discrimination, but there were no reports of antiunion behavior or activities during the year.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, such practices occurred.

The law prohibits the contractual use of persons without their consent; penalties include a fine and hard labor. Penalties increase to 20 years' imprisonment if a person under age 15 years of age is involved.

Many black Tamacheks continued to be subjected to slavery-like practices and hereditary servitude relationships, particularly in the northern regions of Gao, Timbuktu, and Kidal. According to NGOs, the judiciary was reluctant to act in slavery-related cases.

In February local government officials facilitated the rescue of Nalewat, a black Tamachek woman in Bambara-Maounde, who was held as a hereditary slave for 14 years. Her child was also released. In November 2008 Nalewat succeeded in escaping and filed a police report, but was reclaimed in December 2008 by the man who asserted traditional ownership rights. During the year Nalewat filed a legal complaint against him, resulting in an out-of-court settlement of 1,000,000 CFA (\$2,142).

On February 6, a black Tamachek man with seven children, Aboubakrine ag Kamotane, filed a legal slavery-related complaint with local authorities in Timbuktu against Afna. The complaint included claims that Afna forcibly married ag Kamotane's daughter, gave ag Kamotane's sons to relatives, physically assaulted ag Kamotane, and took ag Kamotane's property. There were no further developments in the case by year's end.

There were no developments in the 2008 slavery-related lawsuits filed by Agiachatou walet Touka against Sagoudene ag Adime, Iddar ag Ogazide against Erzaghi ag Bayes, and Tatche walet Ekadaye against Ahmed Iknane ag Bakka.

There were no developments in the case of Moumou ag Tamou, a black Tamachek child taken from his family by Hamed Lamine ag Alwafi in Kidal in September 2007.

Debt bondage occurred in the salt mines of Taoudenni, in the country's north. Individuals primarily of Songhai ethnicity, including some children, worked as salt miners to pay off debts owed to businessmen in Timbuktu.

d. Prohibition of Child Labor and Minimum Age for Employment.—The labor code has provisions that pertain to child labor; however, these were often ignored in practice. Child labor was a problem. Child labor was concentrated in the agricultural and domestic labor sectors.

While the labor code sets the minimum age for employment at 14, with certain exceptions, an ordinance pertaining to children sets the minimum employment age at 15. The labor code permits children between the ages of 12 and 14 to work in domestic work or light seasonal work, and limits the number of hours that they may work. No child is permitted to be employed for more than eight hours per day under any circumstances. Female children who are 16 to 18 cannot be employed for more than six hours per day. However, these regulations were not enforced in practice.

Approximately half of the children between the ages of seven and 14 were economically active, and over 40 percent of children in this age group were subjected to the worst forms of child labor. Child trafficking occurred. Some Koranic schoolmasters forced boys to beg for money or perform agricultural labor. Children, especially girls, were used for forced domestic labor and prostitution. Child labor in the mining sector, including salt mining in Taoudenni and gold mining, was also a problem. Black Tamachek children were forced to work as domestic and agricultural laborers.

Authorities enforced labor code provisions, including those related to child labor, through inspectors from the Ministry of Labor and State Reforms, which conducted surprise inspections and complaint-based inspections; however, resource limitations restricted the frequency and effectiveness of oversight by the Labor Inspection Service, which operated only in the formal sector.

A 43-member national committee for child labor and trafficking issues worked to develop a list of the worst forms of child labor. The committee was composed of 13 ministries as well as NGOs, and was chaired by the Ministry of Labor. On February 4, the government finalized a list of hazardous occupations in which children are prohibited from working.

e. Acceptable Conditions of Work.—The national minimum wage was 28,465 CFA francs (\$61) per month, which did not provide a decent standard of living for a worker and family. The minimum wage was supplemented by a required package of benefits, including social security and health care. Persons working in the informal and subsistence sectors did not receive the minimum wage. The labor code specifies conditions of employment, including hours, wages, and social security; however, many employers either ignored or did not comply completely with the regulations. The minimum wage is set, with advice from the Ministry of Labor, by presi-

dential decree. The ministry is also responsible for enforcing the minimum wage, but it did not do so effectively.

The legal workweek is 40 hours, except for work in the agricultural sector. The legal workweek for agricultural employees ranges from 42 to 48 hours, depending on the season. The law requires a weekly 24-hour rest period. Workers have to be paid overtime for additional hours. The law limits overtime to eight hours per week. Labor inspectors usually visited work sites only after complaints were filed by labor unions. Legal standards pertaining to hours of work were not always enforced.

The law provides a broad range of legal protections against hazards in the workplace; however, authorities did not effectively enforce these standards. Workers' groups brought pressure on employers to respect sections of the regulations. With high unemployment, however, workers often were reluctant to report violations of occupational safety regulations. The Labor Inspection Service oversees these standards but limited enforcement to the formal sector. It was not effective in investigating and enforcing workers' safety and was insufficiently funded for its responsibilities. Workers had the right to remove themselves from dangerous work situations and to request an investigation by the Social Security Department, which is responsible for recommending remedial action where deemed necessary; it was not known if any worker had done so.

MAURITANIA

Mauritania, with an estimated population of 3.4 million, is a highly centralized Islamic republic governed by President Mohamed Ould Abdel Aziz, whose election on July 18 ended the 11-month political crisis caused by the August 2008 coup d'état against former President Sidi Ould Cheikh Abdallahi. President Aziz had served as head of state and head of the governing junta, the High State Council (HSC), until he resigned from the military on April 22 to formally run for office. The presidential election, declared free and fair by international observers, followed the June 4 Dakar Accord, a consensual agreement brokered by Senegalese President Wade and the international community to end the country's political stalemate. In compliance with the Dakar Accord, deposed President Abdallahi returned on June 27 to form a Transitional Government of National Unity and voluntarily resigned from office. Following the election, civilian authorities maintained effective control over the security forces.

During the year there was deterioration in the human rights situation. Citizens did not have the right to choose their government until the July 18 election. Other problems included mistreatment and torture of detainees and prisoners; security force impunity; lengthy pretrial detention; harsh prison conditions; arbitrary arrests and political detention; limits on freedom of the press and assembly, including police beating of demonstrators and arrests of journalists; restrictions on freedom of religion; and corruption. Other problems included slavery and slavery-like practices, discrimination against women, female genital mutilation (FGM), child marriage, political marginalization of southern-based ethnic groups, and child labor.

During the year the HSC and President Aziz's administration continued the national reconciliation program for the repatriation of Afro-Mauritanian refugees from Senegal and Mali, in coordination with the Office of the UN High Commissioner for Refugees (UNHCR). On December 31, repatriation operations were successfully ended with the arrival of the last group from Senegal. On March 25, the HSC signed a framework agreement to compensate 244 widows of Afro-Mauritanian military personnel killed during the 1989-91 expulsion of Afro-Mauritanians and held a memorial for the victims on the same day. The agreement and memorial represented the authorities' first public acknowledgement of the government's role in the ethnic killings and expulsions of 1989-91. During the year President Aziz' government also conducted a census of former teachers among returnees in order to reinstate them in their former positions with the Ministry of Education.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the constitution and law prohibit such practices, there were credible reports that police beat and mistreated detainees and prisoners. Those who lacked

money or influential family or tribal ties reportedly were most likely to be mistreated. The May and November reports of the Mauritanian National Bar Association (ONA) maintained torture was a common practice in prisons. As in the previous year, security forces used torture as a method of investigation and repression, and perpetrators acted with impunity. Security forces tortured detainees to extract confessions. Torture methods included electric shocks, burnings, beatings, pulling out of hair, and sexual violence. According to Amnesty International, there were no known cases where authorities investigated reports of torture or abuse or took action against perpetrators.

On August 28, imprisoned terrorist suspect Taher Ould Biye called on authorities to end the mistreatment of himself and other Salafist prisoners at the Nouakchott Central Prison. There was no government response by year's end.

On September 27, Al Jazeera television showed images of national guardsmen at the Nouakchott Central Prison beating and water boarding convicted terrorist suspect Khadim Ould Semane. Al Jazeera also aired a telephone interview with Semane, who stated that he was subjected to electric shocks and degrading treatment. Authorities said the images and interview were staged, and no government investigation occurred by year's end.

On April 8, suspected terrorist Cheikhani Ould Sidina died in prison. A spokesman for the families of imprisoned Islamists told the press that Cheikhani had been tortured while in prison and reportedly was denied medical treatment. There was no government response to the torture allegation by year's end.

In August authorities arrested Mohamed Ould Zeidane for questioning allegedly related to his brother's suicide bomb attack near the French embassy on August 8. Zeidane's father told the press that Zeidane was tortured during his detention. There was no government response by year's end.

During the year there were no reports that authorities investigated the May 2008 case in which police tortured suspected terrorists Abdel Kerim Ben Veraz El Baraoui, Ahmed El Moctar Ould Semane, and Cheikh Ould Salem. The suspects' lawyers had claimed that police tortured their clients by hanging them by their feet and using cigarettes to burn their bodies.

There were no further developments in the May 2008 reported torture of 39 terrorist suspects involved in the 2007 killings of four French citizens and the February 2008 attack against the Israeli embassy.

Prison and Detention Center Conditions.—Prison conditions were harsh, and the government's capacity to administer detention facilities remained poor. Funds to improve prison conditions remained inadequate. The November ONA report denounced overcrowding, violence among inmates, and poor medical care in prisons. The Dar Naim Prison, for example, was designed for 300 prisoners, but held 899. Serious overcrowding contributed to the spread of diseases. Prisoners with health conditions received little or no care and medical supplies remained insufficient. Due to poor security conditions and the fact that dangerous prisoners coexisted with nondangerous ones, prisoners lived in a climate of violence and some had to pay bribes to other prisoners to avoid being brutalized and harassed. On September 24, the local press reported malnutrition, poor health, and hygiene conditions at the Dar Naim Prison. Conditions reportedly worsened further during Ramadan, and soaring food prices and shortages resulted in a daily diet of a can of sardines and a piece of bread for each of the 899 inmates.

During the year there were reports on the poor prison conditions of terrorist suspects. For example, on August 28, the local press reported that Amar Ould Saleh, a terrorist suspect, was dying from tuberculosis and was not receiving medical treatment or medication. That same day suspect Tahere Ould Biye denounced the poor conditions and long detention periods at Nouakchott Central Prison. On September 14, families of Salafist detainees protested poor detention conditions in front of the Central Prison. The wife of detainee El Mami Ould Othman stated he was in declining health with deficient medical attention. There was no government response or investigation of these cases during the year.

The ONA's August report criticized "the nonrespect of human lives in prisons," and highlighted the April 8 death of terrorist suspect Chikhani Ould Sidina, reportedly due to negligence and denial of medical treatment. The report also highlighted the August 6 death, under mysterious circumstances, of Dar Naim Prison inmate Sidi Ould Samba. There was no government response to the report's findings or investigations of these deaths by year's end.

There were credible reports of torture, beatings, and abuse in police detention centers, several prisons throughout the country, and gendarmerie and military facilities.

Women and minors under 18 years of age were held in two separate facilities. Sexual violence reportedly occurred in the women's prison, which employed both

male and female guards. Children of female prisoners remained with their mothers, or the Ministry of Justice gave temporary custody of the children to another family member. International nongovernmental organizations (NGOs), such as the Noura Foundation, Caritas, and Terre des Hommes provided educational and economic opportunities for current and former juvenile and female detainees. Prison overcrowding was reportedly due to the high number of pretrial detainees.

Many prisoners were unable to leave their extremely crowded cells or breathe fresh air for months or years at a time. As a result pretrial detainees were frequently held with convicted and dangerous prisoners. Pretrial terrorist suspects were held in separate areas from the general prison population in Nouakchott Central Prison.

The government permitted prison visits by NGOs, diplomats, and international human rights observers. The International Committee of the Red Cross (ICRC) had access to prisons and conducted multiple prison visits in accordance with its standard modalities, including visits to terrorism suspects.

On September 15, the fourth district judge visited the Dar Naim Prison to study the situation of incarcerated minors. No statements or reports were issued following the visit. On September 15, the Ministry of Justice's inspector general and the prison director visited the Central Prison and heard demands from Salafist detainees in response to continuing protests by their families. The government made no statements or efforts to improve the detention conditions by year's end.

During the year the Commission of Human Rights, Humanitarian Action, and Relations with Civil Society distributed food, hygiene kits, and recreational items to detention centers in Nouadhibou on April and in Nouakchott on September 1. On April 26, the government opened a Center for the Re-education of Minors in Conflict with the Law in partnership with a local NGO, Terre des Hommes.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention, but the authorities did not observe these prohibitions.

Under the HSC, the military arrested a number of political figures and journalists without charge or hearings.

The ONA reports during the year highlighted multiple cases of arbitrary detentions and of individuals kept in prison without ever being charged, tried, or released despite court orders for their release.

For example, on April 20, Moustapha Ould Mohamed Ahmed, was acquitted by the Supreme Court of all charges against him, but remained in prison until May 31.

On March 3, Yahya Ould Mohamedou Nagi, the son of a well-known opposition leader, received a suspended sentence, but remained in prison until March 23.

On December 24, Hanevy Ould Dehah, director of the news Web site Taqadoumy, was scheduled to be released after serving his sentence for crimes against Islam (see section 2.a.) and after paying all imposed fines and legal fees. In protest for his continued detention, Dehah began a hunger strike on December 28; however, he remained imprisoned without official public explanation at year's end. On December 31, Reporters Without Borders called for Dehah's release, stating that "keeping him in jail after having served a completely disproportionate prison sentence constitutes a serious violation of existing laws."

The children's penal code states that a minor's preventive detention cannot exceed six months. However, the ONA also reported a high number of individuals, including minors, who remained in preventive detention for extended periods of time due to judicial ineptitude.

Police reportedly held suspects involved in the 2007 Aleg murders and the February 2008 attack against the Israeli Embassy in incommunicado military detention for a period of time. These individuals had not been tried by year's end.

Role of the Police and Security Apparatus.—The National Police, under the Ministry of the Interior, is responsible for law enforcement and maintaining order in urban areas. The National Guard, also under the Ministry of Interior, performs limited police functions in keeping with their peacetime role as security support at government facilities. The National Guard may also be called on by regional authorities to restore civil order due to large-scale disturbances such as rioting. The gendarmerie, a specialized paramilitary group under the Ministry of Defense, is responsible for maintaining civil order in and outside metropolitan areas, as well as providing law enforcement services in rural areas.

The police were poorly paid, trained, and ill-equipped. Corruption and impunity were serious problems. Police regularly demanded bribes at nightly roadblocks in Nouakchott and at checkpoints between cities. While having a notable effect in increasing security, there were numerous reports of police arbitrarily detaining individuals for a few hours or overnight at roadblocks in Nouakchott or nearby towns.

According to these reports, police detained motorists or passengers without asking for identity papers, vehicle registration, or without searching the vehicles. Police in some regions arrested former criminals and demanded bribes for their release, and some indicted detainees were released before trial without explanation. The government rarely held security officials accountable or prosecuted them for abuses.

Arrest Procedures and Treatment While in Detention.—The application of constitutional safeguards continued to vary widely from case to case. The law requires duly authorized arrest warrants, but they were not commonly used. The law requires that courts review the legality of a person's detention within 48 hours of arrest; however, the police can extend the period for an additional 48 hours, and a prosecutor or court can detain persons for up to 15 days in national security cases. Authorities generally respected the two-week detention period for terrorism suspects to be formally arraigned or released in national security cases. Only after the prosecutor submits charges does a suspect have the right to contact an attorney. By law attorneys for the indigent are provided at state expense, but in practice this did not occur. Lawyers highlighted the lengthy incarceration of detainees and delays in organizing court hearings. There is a bail system, but sometimes judges refused lawyers' requests for bail or set inordinately high bail amounts.

According to ONA, 60 percent of detainees in the Dar Naim Prison were on preventive detention under judicial order to prevent them from fleeing from prosecution or committing criminal offenses. ONA reported that most preventive detentions were in violation of the penal code since individual cases have never been tried. The Dar Naim Prison director regularly informed court authorities of the number of prisoners in preventive detention, but judicial actions were rarely taken. ONA's November report stated that some detainees had been in preventive detention since 2002, and highlighted six detainees in preventive detention since 2006, two since 2007, and eight since 2008. Some were detained for minor offenses such as stealing cell phones or complicity in theft.

On April 8, General Aziz pardoned Al Aqsa newspaper director Abdel Fettah Ould Abeidna who was sentenced to one year in November 2007 for falsely accusing a prominent businessman of involvement in a drug scandal. Ould Abeidna had been in prison since November 2008 following his extradition from Dubai. According to the Mauritanian Human Rights Commission, 118 detainees received presidential pardons during the year.

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary; however, it was not independent in practice. The executive branch continued to exercise significant influence over the judiciary through its ability to appoint and pressure judges. In addition, poorly educated and trained judges were susceptible to social, financial, and tribal pressures, which limited judicial fairness. International donors funded training for prosecutors and judges during the year to increase judicial efficiency.

There is a single system of courts consistent with modified principles of Shari'a law. Departmental, regional, and labor tribunals are the courts of first instance at the lower level. The 53 departmental tribunals, composed of a president and magistrates with traditional Islamic legal training, heard civil cases involving sums less than 10,000 ouguiya (approximately \$37) and family issues, including domestic, divorce, and inheritance cases. A total of 13 regional tribunals accepted appeals in commercial and civil matters from the departmental tribunals and heard misdemeanor cases. At the middle level, three courts of appeal, each with seven chambers (civil, commercial, administrative, and penal chambers, as well as criminal, minors, and labor courts) heard appeals from the regional courts and have original jurisdiction for felonies.

The High Court of Justice (HCJ) also lacked independence because its members are elected from both parliamentary houses. The HCJ reviews decisions and rulings made by the courts of appeal to determine their compliance with law and procedure. It also has jurisdiction to hear cases of abuse or corruption by high government officials.

Constitutional review is within the purview of a six-member High Constitutional Council. The annual review is intended to determine whether courts applied the law correctly and followed proper procedures. Reviews also serve as a basis for evaluating the reform process and reassigning judges based on their qualifications. No reviews took place during the year.

Trial Procedures.—The law provides for due process. Defendants enjoy a presumption of innocence. They have a right to a public trial, but juries are not used. Defendants have the right to consult with an attorney and to be present during their trial. By law all defendants, regardless of the court or their ability to pay, have the legal right to representation by counsel during the proceedings. If defendants lack

the ability to pay for counsel, the court should appoint an attorney from a list prepared by ONA, which provides a defense free of charge. However, this measure was not efficiently enforced during the year. Defendants have the right to appeal. Defendants can confront or question witnesses and present witnesses and evidence in both civil and criminal cases. In theory, defendants have access to government-held evidence, but access has proven difficult in practice. These rights were also extended to minorities. The foregoing rights generally were observed in practice, but did not extend equally to women.

Shari'a provides the legal principles upon which the law and legal procedure are based; the courts did not treat women equally in all cases. Lawyers also reported that in some cases the unequal treatment of women was based on considerations such as a woman's caste or nationality.

A special court hears cases involving minors under the age of 18. Children who appeared before the court received more lenient sentences than adults, and extenuating circumstances received greater consideration in juvenile cases. The minimum age for children to be tried is 12. Those between the ages of 12 and 18 are tried and, if convicted, sentenced to the detention center for minors.

During the year, ONA denounced violations of the legal code and procedural rules for political purposes, particularly in high-profile cases. For example, authorities arrested the director of the Agency for the Promotion of Popular Savings and Credit Accounts, Ahmend Ould Khattri, before the Mauritanian Central Bank launched an investigation into allegations of mismanagement, and before a judge had reviewed the case.

Political Prisoners and Detainees.—During the year ONA denounced the case of former prime minister Waghef whom junta authorities had arrested and charged for embezzlement by a civil court in November 2008 following his initial arrest during the August 2008 coup. On June 4, Waghef was released on bail as an opposition precondition for signing the Dakar Accord.

Civil Judicial Procedures and Remedies.—The Administrative Court has the jurisdiction to hear complaints of human rights violations. NGO representatives stated they collaborated with the court but that it was not impartial in practice.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of speech and of the press, and the government usually respected these rights in practice. Individuals could criticize the government publicly or privately; however, police questioned and detained members of the press on several occasions.

For example, journalists for the Web site Taqadoumy were arrested or detained on numerous occasions due to their online articles or comments criticizing the junta. On March 15, police arrested Taqadoumy editor Abou al-Abbas Ould Braham on charges of defamation and intent to destabilize the country for publishing articles about the junta. Following international and domestic protests, Braham was released on March 18.

On June 18, Hanevy Ould Dehah, Taqadoumy's director, was arrested on charges of defamation against presidential candidate Ibrahima Sarr for publishing an article stating that Sarr bought a house with campaign money from General Aziz. Dehah, who was kept in prison despite the expiration and nonrenewal of his arrest warrant on July 26, was sentenced in August 19 to six months in prison and fined 30,000 ouguiya (\$111) for committing acts contrary to Islam and decency, charges unrelated to those leading to his arrest. The sentencing judge accused Dehah of creating a space allowing individuals to express anti-Islamic and indecent views due to a female reader's comments made on the Taqadoumy site calling for increased sexual freedom. On August 19, the NGO Reporters Without Borders condemned the decision as disproportionate.

On September 12, police arrested Taqadoumy journalist Djibil Diallo after his article criticizing Libyan President Qadhafi was posted. Diallo was released without explanation or charge on September 15.

Previous cases of journalist detention include the March 2008 detention of Assiraje newspaper journalist Mohamed Salem Ould Mohamedou for unknown reasons. Mohamedou was released after a few days and was never charged.

The trials of journalists Mohamed Nema Oumar and Mohamed Ould Abdellatif had not begun by year's end. Oumar and Abdellatif were detained and charged with defamation in June and July 2008 following the publication of an Al-hurriya newspaper article accusing three judges of corruption.

There were no developments in the October 2008 case of trade union activists' assault on Al Jazeera cameraman Mohamed Ould Moustafa due to his film coverage of post-coup opposition activities.

The independent media were active and expressed a wide variety of views with limited restrictions. However, some journalists practiced self-censorship in covering areas deemed sensitive, including the military, foreign diplomatic missions, corruption, and Shari'a and there were reports of intimidation of journalists who covered sensitive issues.

There were approximately 30 privately owned newspapers that were published on a regular basis in both French and Arabic. NGOs and the privately owned press openly criticized the government and its leaders. Two daily newspapers, Horizons (in French) and Chaab (in Arabic), were government owned and generally focused on official news. On December 10, the government announced it would reopen official media to the opposition; but by year's end only some opposition views were released in official outlets.

On August 6, immediately following the coup, military authorities blocked the road to the presidential palace. This action prevented several newspapers from publishing that day since the country's only printing press is located on the same road. There were no reports that the government restricted opposition access to the printing press during the year.

All local broadcast media remained state owned. Radio France International was rebroadcast locally, and citizens could receive worldwide television broadcasts through satellite receivers and dish antennas. Nevertheless, despite the lack of deregulation laws, the private television channel DAVA continued to operate during the year following its 2008 launch. The June 2008 suspension of the privately owned Radio Citoyenne's broadcasts, plus other radio and television programs devoted to civic education, continued during the year.

Internet Freedom.—There were occasional government restrictions on access to the Internet. On March 16, the general prosecutor ordered the two main Internet providers to block online access to the Taqadoumy site. Due to local and international protests, access was restored on March 19.

On June 25, Mauritel, the leading Internet provider, blocked access to the Taqadoumy site for the day.

Individuals and groups could generally engage in the peaceful expression of views via the Internet, including by e-mail. Nevertheless, Taqadoumy director Hanevy Ould Dehah was sentenced on August 19 for "acts contrary to decent behavior" for contributing to the creation of a space where a female user made comments calling for increased sexual freedom in the country.

Internet access was available in urban areas throughout the country, with home access common among the affluent, and cyber cafes serving the remainder of the population. According to International Telecommunication Union statistics for 2008, approximately 1.4 percent of the country's inhabitants used the Internet.

Academic Freedom and Cultural Events.—There were no government restrictions on academic freedom or cultural events. However, on May 24, customs police arrested singer and Senator Malouma Mint Elmeida upon her return to the country. The police seized 200 CDs and 1,000 cassettes of Elmeida's new album, which featured anti-coup songs.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The constitution guarantees freedom of assembly. The law requires that organizers apply to the local prefect (hakim) for permission to hold large meetings or assemblies. Permission was generally approved, but on numerous occasions the authorities denied permission to hold demonstrations. Public demonstrations with varying levels of violence, both supporting and opposing the coup, were reported around the country. There were a number of incidents in which security forces forcefully dispersed opposition demonstrations.

For example, on March 16, police violently dispersed a journalist demonstration in support of freedom of speech and Taqadoumy journalist Abbas Braham who had been arrested on defamation charges the day before. Several of the journalists were beaten and injured.

On April 2, police used tear gas and batons to violently disperse hundreds of anti-coup activists who attempted to march from the National Union for Democratic Alternatives party headquarters to the Capital Stadium. Several people, including political leaders were injured. Boubacar Messaoud, president of the NGO SOS Enslaves received neck injuries after reportedly being targeted by police during the march.

On April 3, police used tear gas and batons to disperse a group of female activists from the National Front for the Defense of Democracy (FNDD), who were attempting to march outside of the Peoples Progressive Alliance headquarters.

On April 19, police used batons to disband a peaceful protest by female politicians from the FNDD and Rally of Democratic Forces (RFD) parties who were protesting against the coup in front of the UN building. Some women were injured and taken to the hospital.

On May 25, police attempted to enter the Union of The Forces for Progress (UFP) party headquarters in Nouadhibou during a peaceful UFP, RFD, and Tawassoul sit-in calling for a return to constitutional order. Police beat several demonstrators with batons.

On December 16, police used tear gas and batons to break up a protest in support of arrested businessmen Mohamed Ould Noueiguedh, Cherif Ould Abdellahi, and Abdou Maham.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right.

All political parties and local NGOs must register with the Ministry of the Interior, while all international NGOs must register with the Ministry of Economic Affairs and Development. The government encouraged local NGOs to join the Civil Society Platform, a government-sponsored entity implemented in January. NGOs that are members of the platform do not receive government funding.

The country has approximately 74 registered political parties and numerous NGOs, which generally functioned openly, issued public statements, and chose their own leadership. The government did not prevent unrecognized political parties or NGOs from functioning.

c. Freedom of Religion.—The constitution establishes the country as an Islamic republic and decrees that Islam is the religion of its citizens and the state. The government continued to prohibit proselytizing by non-Muslims and the printing and distribution of bibles and other non-Islamic religious materials. However, the possession of bibles and other Christian religious materials in private homes was not illegal. Bibles and other religious publications were available among the small Christian community, which was composed almost entirely of expatriates. There was a multid denominational church in Nouakchott with a regular schedule of services.

The government did not register religious groups, although NGOs—including humanitarian and development NGOs affiliated with religious groups—had to register with the Ministry of the Interior. The government continued to restrict Protestant groups from meeting in members' homes until they received official permits. On September 14, Police Commissioner Abdel Vettah Ould Hababa shut down three churches frequented by West Africans in the Sebkha district of Nouakchott. According to press reports, the police confiscated bibles and furniture and briefly arrested 81 persons, including the pastor.

Societal Abuses and Discrimination.—A very small number of expatriates practiced Judaism.

Prior to the June 18 election, tracts showing a demon-like depiction of President Abdallahi's face inside a Star of David and surrounded by anti-coup leaders were distributed widely in Nouakchott during the period leading up to the June 6 elections. The designer of the tracts remained unknown.

On June 23, a foreign NGO worker, Christopher Leggett, was killed by two gunmen upon arriving at his workplace in Nouakchott. Al-Qa'ida in the Islamic Maghreb (AQIM) claimed responsibility for the murder, stating Leggett had been targeted for his Christian proselytizing activities. Government authorities and civil society condemned the killing. Two suspects were arrested on July 17 and a third on July 24. They remained in custody and awaited trial at the end of the year.

In February 2008 terrorists affiliated with AQIM shot at the Israeli Embassy and adjacent buildings. The government publicly condemned the attack. Five persons were reportedly injured. The nine suspects who were arrested remained in prison at year's end without trial.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation. The government generally respected these rights, but persons lacking identity cards could not travel freely in some regions. During the year HSC authorities reportedly restricted international travel of some opposition members.

During the year the government, in response to an increased terrorist threat, set up roadblocks where gendarmerie, police, or customs officials checked the papers of travelers and often demanded bribes.

The law does not prohibit forced exile, and there were no reports that the government used it.

The government cooperated with UNHCR and other humanitarian organizations in providing protection and assistance to internally displaced persons, returning refugees, asylum seekers, stateless persons, and other persons of concern; however, the government lacked resources to effectively support these persons. However, reintegration of returnees into communities was challenging due to deficient sanitation, health, and education infrastructure, as well as land disputes. The majority of Afro-Mauritanian returnees were unable to obtain identity cards. According to UNHCR, the deficiencies stemmed from bureaucratic delays rather than policy. The National Agency for the Welcome and Reintegration of Refugees (ANAI) oversees the reintegration of repatriated refugees, provides administration and identification support, and contributes to social and economic development of resettlement areas. During the year ANAI offered reintegration programs such as summer camps for refugee children and training sessions for women. President Aziz's government also conducted a census of former teachers among returnees in order to reinstate them in their positions with the Ministry of Education. According to UNHCR, approximately 17,130 Afro-Mauritanian refugees returned during the year as part of a national repatriation program. These were among the estimated 25,000 to 34,000 Afro-Mauritanians who took refuge in Senegal and Mali during the 1989-91 expulsion.

The contents of the settlement agreement between the HSC and the widows of 1989-91 victims on March 25 remained secret, and some victims complained they were not fully aware of the terms and conditions of the settlement when they accepted it. Some victims favorable to the settlement described it as a first step, but not a final resolution.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 Convention relating to the Status of Refugees or its 1967 protocol, or the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. However, there is a system for providing such protection. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedoms would be threatened. The government provided protection to approximately 790 refugees during the year.

During the year the government worked to assist UNHCR, the European Commission, and the government of Spain in returning migrants to their countries of origin after attempts to reach the Canary Islands by sea. The government operated a migrant reception center in the Dahklet Nouadhibou region, with the assistance of the Mauritanian Red Crescent and Spanish Red Cross, to process returned migrants and to provide nutritional and medical care. International NGOs criticized overcrowding and poor detention conditions at the Nouadhibou migrant reception center. During the year there was no government response to a Spanish NGO's July 2008 report that recommended the center's closure based on its operation outside legal frameworks.

UNHCR determined that conditions at the Nouadhibou migrant reception center were acceptable. During the year local human rights organizations denounced police abuses of foreigners in the Nouadhibou region based on reports of police picking up immigrants indiscriminately in order to fill quotas or to request bribes in return for their release. The government did not respond to these reports by year's end.

The government gave UNHCR access to returned migrants to determine if they were eligible for refugee status. In view of freedom of movement agreements with the Economic Community of West African States, the government allowed West African migrants to remain, deporting only those found in the act of attempting illegal travel to the Canary Islands.

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

The constitution provides for universal direct and indirect suffrage, a republican government, and the regular election of the president and legislature. However, prior to the July 18 election, the HSC, led by General Aziz, remained in power due to the August 2008 coup which supplanted the office of the president while retaining the parliament and appointing a new prime minister. The HSC also reserved the right to exercise legislative authority as well if it deemed the legislature ineffective. The country returned to constitutional rule on June 27 following the voluntary resignation of then president Abdallahi and the formation of a Transitional Government of National Unity. The election was boycotted by the opposition, and Aziz won

with 53 percent of the vote. The results were recognized by the international community.

Elections and Political Participation.—The country enjoyed a peaceful transition from military rule to a democratically elected government with the July 18 election as president of former HSC leader General Aziz, who won 53 percent of the vote. Although opposition groups claimed the election was fraudulent and requested an investigation, national and international observers judged the election to be free and fair, and the Constitutional Council certified the election results on July 23.

The 95-person National Assembly includes representatives from 12 of the 25 parties that contested the 2006 legislative elections as well as 41 independents. Senate elections held on November 8 resulted in the ruling UPR party winning 14 of 17 seats. The Islamic party Tawassoul and independent candidates won the remaining seats. The opposition RFD party lost a seat. The opposition and independent candidates denounced strong pressures from the authorities on municipal advisors to vote for majority party candidates and to convince independent candidates to step down. No investigations were launched by year's end.

There were 15 women in the National Assembly and nine women in the Senate. The 29-member cabinet included six women, two Black Moors, and seven Afro-Mauritanians.

The electoral law requires that women make up at least 20 percent of candidates on legislative candidate lists.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not enforce the law effectively, and officials often engaged in corrupt practices with impunity. Corrupt practices were widely believed to exist at all levels of government, and the World Bank's most recent Worldwide Governance Indicators reflected that corruption was a severe problem. Government officials reportedly received frequent favors from authorities, such as unauthorized exemption from taxes, special grants of land, and preferential treatment during bidding on government projects. Corruption was most pervasive in government procurement, bank loans, fishing license distribution, land distribution, and tax payments. The Brigade of Economic Crimes and the Office of the Inspector General were responsible for investigating corruption. President Aziz's government placed fighting corruption at the top of its agenda and made high-profile arrests during the year; however, corruption and impunity were serious problems in the police force, and the government rarely held security officials accountable or prosecuted them for abuses. Judicial corruption was also a problem.

On November 11, the former governor of the Central Bank, Sidel Mokhtar Ould Nagi, and his deputy, Mahomed Ould Oumarou, were arrested for mismanagement and diversion of approximately 24 billion ouguiya (\$88 million) in 2000-01. On December 3, they were charged with treason, forgery, diversion, and waste of public funds; their trial did not begin by year's end.

On December 3, authorities arrested Mohamed Ould Noueiguedh, chairman and chief executive officer of the National Bank of Mauritania; Crif Ould Abdallahi, chairman of the board of the Islamic Bank of Mauritania; and businessman Abdou Maham. On December 10, the public prosecutor charged them with conspiracy in defrauding the Central Bank of 14 billion ouguiyas (\$52 million). The government claimed the charges were part of an anticorruption investigation, but the opposition claimed the arrests and charges were in retaliation for the men's support of the opposition and their tribal affiliation.

On September 3, a Global Fund to Fight Aids, Tuberculosis, and Malaria investigation uncovered widespread corruption in the management of the fund's grant to the country. The Economic Crimes Brigade arrested the country program coordinator, his executive secretary, and two other individuals on October 3 in connection with the fraud scheme. The suspects were not tried by year's end.

The government did not enforce the requirement for senior officials, including the president, to file a declaration of their personal assets. Members of the HSC did not declare their personal wealth during the year.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

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

Major local human rights organizations included the Mauritanian Association of Human Rights (AMDH), the Mauritanian League of Human Rights (LMDH), SOS

Esclaves, and the Mauritanian Association for Maternal and Child Health, all of which were independent NGOs. These NGOs were also members of several networks or coalitions such as the National Forum of Organizations for Human Rights (FONADH) and the National Commission of Human Rights (CNDH). Since the CNDH included government members, it was not fully independent.

The government met with local NGO monitors during the year and cooperated during visits by the UN and ICRC. UN Special Rapporteur on Contemporary Forms of Slavery Gulnara Shahinian visited from October 24 to November 4 to study actions taken by the government to end slavery. No report was released by year's end.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law provide for equality for all citizens regardless of race, national origin, sex, or social status, and prohibits racial or ethnic propaganda; however, the government often favored individuals on the basis of racial and tribal affiliation, social status, and political ties. Societal discrimination against women, trafficking in persons, and racial and ethnic discrimination were problems.

Women.—According to NGOs, the incidence of both reported and unreported rape continued to be high, and rape was considered a serious problem. Rape, including spousal rape, is illegal; however, the government did not enforce the law effectively. According to the penal code, rapists who are single men faced forced labor and flagellation. Married rapists could be subject to the death penalty. However, rape cases rarely went to trial. Several cases were reported of wealthy rape suspects avoiding prosecution or, if prosecuted, avoiding prison time. Families of the victim commonly reached an agreement with the rapist for monetary compensation. National statistics on arrests, prosecutions, and convictions for rape were unavailable. Human rights activists and lawyers highlighted that rape victims were stigmatized, persecuted, and even imprisoned. Since rape was tied to the concept of Zina or sinful sexual relations outside marriage, judges may hold the victims responsible for the rape.

Domestic violence was considered a serious problem. Spousal abuse and domestic violence are illegal; however, the government did not usually enforce the law effectively and most cases went unreported. There are no specific penalties for domestic violence, and convictions were very rare. There were no reliable government statistics on prosecutions, convictions, and sentences for domestic violence, but the Association Femmes Chefs de Familles (AFCF) provided legal assistance to 1,152 domestic violence victims during the year.

The police and judiciary occasionally intervened in domestic abuse cases, but women rarely sought legal redress, relying instead on family, NGOs, and community leaders to resolve domestic disputes. NGOs reported that in certain cases they had sought help from the police for victims of domestic violence, but the police declined to intervene. AFCF and other women's NGOs provided psychologists and shelter to victims.

Although prostitution is illegal, NGO reporting indicated that it was a growing problem in some urban areas, particularly among Afro-Mauritanian and Black Moor women. Trafficking of Chinese women for brothels catering to foreigners in Nouakchott and Nouadhibou was reported.

Traditional forms of mistreatment of women appeared to decline during the year. One form of such mistreatment was the forced feeding of adolescent girls (gavage) prior to marriage, which was practiced only among White Moor tribal groups. Increased government, media, and civil society attention to the problem led to a marked decline in traditional views encouraging female obesity despite the health risks. Nevertheless, overeating to conform to cultural standards remained an issue in rural and urban areas. Many urban women endangered their health by taking pills to gain weight or increase their appetite.

The government recognized the right of individuals and couples to make reproductive health choices on their own without violence or coercion. Men and women had equal access to diagnosis and treatment for sexually transmitted infections, including HIV.

Reproductive issues were a sensitive topic. Some women's NGOs such as the Mauritanian Association for the Health of Women and Child (AMSME) and AFCF focussed on reproductive rights. AFCF stressed that poor women and women from traditionally lower castes such as slaves and former slaves had insufficient access to contraception, obstetric and postpartum care, skilled attendance during childbirth, and treatment for sexually transmitted infections, including HIV. AMSME, which operated a center for rape victims, provided emergency contraception to victims.

Women's NGOs reported sexual harassment was a common problem at the workplace, but there are no laws or penalties against it.

Women have legal rights to property and child custody, and, among the more modern and urbanized population these rights were recognized. Nevertheless, divorced women could potentially lose child custody if they remarried. By local tradition, a woman's first marriage requires parental consent. In accordance with the personal status code, men can marry up to four women but are required to request spousal consent before marrying again. Women were encouraged by government awareness programs to obtain a contractual agreement at the time of marriage stipulating that the marriage ends if the husband marries a second wife. This practice was common in Moor society. Nevertheless, women who did not establish a solid contract remained unprotected. In practice, polygamy continued to be rare among Moors but was gaining in popularity. It was common among other ethnic groups. Arranged marriages were increasingly rare, particularly among the Moor population. In theory, the legal marriage age in the country is 18 but the law was rarely enforced, and there were widespread reports of child marriages. Also, there was cultural resistance to marriages among members of different castes, and NGOs reported powerful individuals used the judicial system to intimidate and persecute members of their families who married below their social rank.

Women still faced legal discrimination, and they were considered minors in the eyes of the law. According to Shari'a, the testimony of two women was necessary to equal that of one man. The courts granted only half as large an indemnity to the family of a woman who was killed as was awarded for a man's death. Formulas applied to property distribution varied widely from case to case. In addition the validity of and right to establish prenuptial agreements was not always respected. The personal status code provides a framework for the consistent application of secular law and Shari'a-based family law, but the code had yet to be implemented. Human rights lawyers reported judges treated differently cases concerning White Moor women and those concerning slave or lower-caste women. Foreign women and Mauritanian women also received different treatment by judges.

Women did not face legal discrimination in areas not addressed specifically by Shari'a. The law provides that men and women should receive equal pay for equal work. While not applied universally in practice, the two largest employers, the civil service and the state mining company, observed this law. In the modern wage sector, women also received family benefits, including three months of maternity leave.

The government sought to open new employment opportunities for women in areas that were traditionally filled by men, such as health care, communications, police, and customs services. Women continued to become more involved in the fishing industry and established several women's fishing cooperatives.

On February 25, the Ministry of Social, Child, and Family Affairs launched a two-year program in cooperation with the UN Population Fund to promote a socio-cultural and legislative environment that favors gender equality and reduces gender violence. The Secretariat for Women's Affairs worked with many NGOs and cooperatives to improve the status of women. Women's groups and national and international NGOs organized meetings, seminars, and workshops throughout the year to publicize women's rights. The secretariat, in collaboration with the German NGO GTZ, publicized women's rights and organized workshops regarding their rights.

Children.—According to a new law adopted on December 25, citizenship is derived from one's father. Citizenship can be derived from one's mother under the following two conditions: if the mother is a citizen and the father's nationality is unknown and if the child was born in country to a citizen mother and repudiates the father's nationality a year before reaching majority. Children born abroad to citizen parents can obtain the country's citizenship one year before reaching majority. Minor children of parents who acquire Mauritanian nationality are also eligible for Mauritanian citizenship.

In general, the government registered births immediately; however, in the South, many citizens reported not having birth certificates or national identity papers. In addition, some slaves did not have birth certificates. There were no official data on the number of births that go unregistered.

The law makes special provision for children's welfare, and there were government programs to care for abandoned children; however, inadequate funding hampered these programs.

School attendance is mandatory for six years of universal primary education. However, the law was not effectively enforced. Public education was free through university level. Classes were fully integrated, including boys and girls from all social and ethnic groups. Children of slave caste families were allowed to attend school, but many did not receive an education. There were no legal restrictions on the education of girls. Almost all children, regardless of gender or ethnic group, attended Koranic school between the ages of five and seven and gained at least rudimentary skills in reading and writing Arabic.

FGM was practiced by all ethnic groups and performed on young girls, often on the seventh day after birth and almost always before the age of six months. The child protection penal code states that any act or attempt to damage a female child's sexual organs is punishable by imprisonment and a 120,000 to 300,000 ouguiya (\$460 to \$1,153) penalty. The most recent statistics on FGM indicated a decrease in incidence from 71 percent in 2001 to 65 percent in 2007, mainly due to a decrease in the urban sector. Local experts agreed that the least severe form of excision was practiced and not infibulation, the most severe form.

The government and international NGOs continued to coordinate anti-FGM efforts focused on eradicating the practice in hospitals, discouraging midwives from practicing FGM, and educating the population. The government, the UN Population Fund, the UN Children's Fund (UNICEF), and the national Imams' Association joined other civil society members to emphasize the serious health risks of FGM and that FGM was not a religious requirement. Government hospitals and licensed medical practitioners were barred from performing FGM, and several government agencies worked to prevent others from performing the practice. According to several women's rights experts, the campaign against FGM appeared to be changing attitudes towards the practice. On February 6, the government and civil society organized a Zero Tolerance day to raise awareness about FGM.

Local NGOs estimated that there were approximately 1,000 street children, largely as a result of poverty and the urbanization of formerly nomadic families. There was limited government assistance to street children.

Trafficking in Persons.—The law prohibits all forms of trafficking in persons; however, persons were trafficked to, from, and within the country. Trafficking in persons was a serious problem. There were no available estimates on prosecutions or sentencing of traffickers during the year.

Young boys known as talibes were trafficked within the country and from Mali and Senegal for forced begging by religious teachers called marabouts. Children were trafficked within the country by street gang leaders, who forced them to steal, beg, and sell drugs. Girls were trafficked internally and from Senegal and Mali for domestic servitude.

There were reports that children were trafficked for forced labor in agriculture, construction, fishing, and cattle herding.

Local NGOs reported trafficking of young girls to the Gulf States. Often, the girls were married off to wealthy Gulf men in exchange for bride price payments to their families, and the girls reportedly were held as sex slaves, or prostitutes.

UNICEF, the Ministry of Justice, and the government of the United Arab Emirates (UAE) continued collaborative efforts to compensate children trafficked to the UAE as camel jockeys. According to UNICEF, the UAE compensated 497 child jockeys between 260,000 and 1,560,000 ouguiyas (\$1,000 to \$6,000) per child. The UAE also provided 260 million ouguiyas (\$1 million) towards a social reinsertion and poverty reduction program for the children and their communities.

Despite the antislavery law, NGOs reported that slavery-related practices and slavery itself persisted in isolated areas of the country where a barter economy still prevailed (see section 7.c.) and also in urban centers like Nouakchott. In March and April, local antislavery organization SOS Esclaves reported two slavery and child abuse cases involving minors Hana Mint Maria and Vatimetou Mint Mata Moulana. According to SOS Esclaves and human rights lawyers, the court system failed to remove the children from their abusive households or to prosecute the alleged slave owners under either antislavery or child abuse laws.

Government assistance and protection services for trafficking victims remained limited, with most resources going towards prevention in the form of training for police, gendarmes, and legal officials to better identify, investigate, and convict traffickers. In addition human rights organizations criticized the special police unit established to protect talibes for not enforcing the laws. On October 23, the government announced the creation of a new security agency to monitor all forms of trafficking via roads; but, at year's end, the agency had not been established.

The labor code includes criminal penalties for human trafficking in all of its recognized forms.

The State Department's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The law prohibits discrimination against persons with physical disabilities in education, employment, or the provision of other state services, and there were no reports of governmental or societal discrimination against persons with disabilities. Persons with disabilities generally did not have access to buildings, and there were no government programs to provide such access. The government did not mandate preference in employment or education or public accessi-

bility for persons with disabilities, although it did provide some rehabilitation and other assistance for such persons. The Ministry of Social Affairs, Children, and Family oversaw social reinsertion programs for people with disabilities.

National/Racial/Ethnic Minorities.—Ethnic minorities faced governmental discrimination. The inconsistent issuance of national identification cards, which were required for voting, effectively disenfranchised numerous members of southern minority groups. Racial and cultural tension and discrimination also arose from the geographic and cultural divides between Moors and Afro-Mauritanians. The Moors are divided among numerous ethnolinguistic tribal and clan groups and further distinguished as either White Moor or Black Moor, although it was often difficult to distinguish between the two by skin color. White Moor tribes and clans, many of whom are dark-skinned after centuries of intermarriage with Berbers and sub-Saharan African groups, dominated positions in government and business. The Black Moors (also called Haratines or freed slaves) remain politically and economically weaker than White Moors. Afro-Mauritanian ethnic groups, which include the Halpulaar (the largest non-Moor group), Wolof, and Soninke, are concentrated in the south and urban areas. Afro-Mauritanians were underrepresented in the government and military.

The constitution designates Arabic as the official language and Arabic, Pulaar, Soninke, and Wolof as the country's national languages. The government continued to encourage French and Arabic bilingualism within the school system, as opposed to previous efforts at "Arabization." Neither the Afro-Mauritanian national languages nor the local Hassaniya Arabic dialect were used as languages of instruction.

Ethnic rivalry contributed to political divisions and tensions. Some political parties tended to have readily identifiable ethnic bases, although political coalitions among parties were increasingly important. Black Moors and Afro-Mauritanians continued to be underrepresented in mid to high-level public and private sector jobs.

There were numerous reports of land disputes between former slaves, Afro-Mauritanians, and Moors. According to human rights activists and press reports, local authorities allowed Moors to expropriate land occupied by former slaves and Afro-Mauritanians or obstruct access to water and pastures. On August 23, according to human rights activists, members of the Jaavra tribe physically attacked the former slave family Ehel Brahim in Kifa following a land dispute. Fatimetou Mint Brahim and her children were wounded. The attack was reportedly instigated by Brrou Ould Mohamed Mahmoud Ould Cheikh. The perpetrators remained unpunished by year's end.

Human rights NGOs reported numerous cases of heritage disputes between slaves or former slaves and their masters. Traditionally, slave masters inherited their slaves' possessions. In March human rights groups reported the case of Salma Mint Jiddou, a Nouakchott widow, whose inheritance was claimed by her husband's owners. In another case in Hodh El Gharby, the family of Zeinabou Mint Brahim was deprived of its inheritance by Cheikh Mohamedou Ould Cheikh Hamadoullah, who claimed Mint Brahim was his slave. Despite a court ruling establishing Mint Brahim's brothers and sister as the rightful heirs, the authorities did not enforce the ruling by year's end.

On March 21, the government launched the 1 billion ouguiya (\$3.7 million) Program to Eradicate the Effects of Slavery. The program's goals were to reduce poverty among 44,750 former slaves in the Assaba, Brakna, Gorgol, and Hodh Chargui regions and improve access to water, health, education, and income-generating opportunities. On March 9, the government, in conjunction with the UN and a foreign donor, launched a three-year 1.3 billion ouguiya (\$5 million) conflict prevention program aimed at promoting democratic values and the rights of marginalized populations, including former slaves.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Under Shari'a homosexual acts between males are punishable by death if witnessed by four individuals; however, there was no evidence of either societal violence or systematic government discrimination based on sexual orientation, and there were no criminal prosecutions during the year. There were no organizations advocating for sexual orientation or gender-identity rights, but there were no legal impediments to the operation of such groups.

Other Societal Violence or Discrimination.—There was no evidence of systematic discrimination by either society or the government against persons with HIV/AIDS; however, taboos and beliefs associated with the disease caused victims in some areas to face isolation or exclusion. Although the official HIV-positive rate was estimated at less than 1 percent, it was likely to be significantly higher because of the stigma related to the disease, the lack of viable health statistics, and the impression that victims were guilty of violating Islamic practices.

Section 7. Worker Rights

a. The Right of Association.—The law allows workers to form and join unions of their choice without authorization or excessive requirements, and workers exercised this right. The law also provides for freedom of association, and workers exercised this right in practice. All workers except members of the military and police were free to associate in and establish unions at the local and national levels. The majority of the labor force was in the informal sector, with most workers engaged in subsistence agriculture and animal husbandry; only 25 percent were employed in regularly paid positions. Nearly 90 percent of industrial and commercial workers, however, were unionized.

To be legally recognized, a union must have the authorization of the public prosecutor, who can provisionally suspend a trade union at the request of the Ministry of the Interior if it believes that the union has not complied with the law. The government has the discretion to decide whether to recognize a trade union.

The law provides workers with the right to strike, and workers exercised this right during the year. The government can dissolve a union for what it considered an illegal or politically motivated strike; however, no unions were disbanded during the year. Workers must provide advance notice of at least 10 working days for any strike. Workers are not allowed to hold sit-ins or to block nonstriking workers from entering work premises.

b. The Right to Organize and Bargain Collectively.—The law provides that unions may organize workers freely without government or employer interference, and workers exercised this right in practice.

Laws provide workers with protection against antiunion discrimination; however, national human rights groups reported that authorities did not actively investigate alleged antiunion practices in some private firms owned by very wealthy citizens. There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, men, women, and children were trafficked for purposes of forced labor. The antislavery law criminalizes the practice of slavery and imposes penalties on government officials who do not take action on reported cases; however, no cases were prosecuted during the year. The labor code also includes criminal penalties for contracting to benefit from forced labor and for exploiting forced labor as part of an organized criminal network. Slavery-related practices, typically flowing from ancestral master-slave relationships, continued in rural areas where education levels were generally low and a need existed for herding livestock, tending fields, and other manual labor. Slavery also occurred in urban centers where young children were retained as unpaid household servants. Some individuals considered themselves either slaves or masters and were unaware that slavery had been abolished. Human rights groups reported that persons in slave-like relationships were persuaded by their masters to deny the relationship to activists.

Voluntary servitude continued, with some former slaves and descendants of slaves continuing to work for former masters in exchange for some combination of money, lodging, food, or medical care. The reasons for the persistence of such practices varied widely among the different ethnic groups; however, a barter economy, poverty, and persistent drought provided few economic alternatives for many and left some former slaves and descendants of slaves vulnerable to exploitation by former masters. Adult females with children faced greater difficulties and could be compelled to remain in a condition of servitude, performing domestic duties, tending fields, or herding animals.

There were reports that some former slaves continued to work for their former masters or others without remuneration to retain access to land they traditionally farmed. Although the law provides for distribution of land to the landless, including to former slaves, it has been enforced in only a few cases. Deeply embedded psychological and tribal bonds also made it difficult for many individuals, who had generations of forebears who were slaves, to break their bonds with former masters or their tribes. Some persons continued to link themselves to former masters because they believed their slave status had been divinely ordained and they feared religious sanction if that bond were broken. Former slaves often performed manual labor in markets, airports, and ports.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law provides that children cannot be employed before the age of 14 in the nonagricultural sector or under age 13 in the agricultural sector unless the minister of labor grants an exception due to local circumstances; however, child labor in some parts of the informal sector was common and a significant problem, particularly within poorer inner city areas. The law states that employed children between the ages of 14 and

16 should receive 70 percent of the minimum wage and that those between the ages of 17 and 18 should receive 90 percent of the minimum wage. They should not work over eight hours a day and should have one or several one-hour breaks.

The law prohibits all forms of trafficking in persons; however, children were trafficked to, from, and within the country for the purpose of forced labor.

Several reports suggested that young girls from remote regions, and possibly from western Mali, were forced to work as unpaid housemaids in some wealthy urban homes.

An unknown number of young talibes, nearly all from Halpulaar tribes, begged in the streets as part of an arrangement with marabouts for receiving religious instruction. There were reliable reports that a small number of marabouts forced their talibes to beg for over 12 hours a day and provided them with insufficient food and shelter. The government continued a program to reduce the number of talibes and partnered with NGOs to provide talibes with basic medical and nutritional care.

Street gang leaders forced children to steal, beg, and sell drugs. There were reports that children were forced to work in agriculture, construction, fishing, and cattle herding. NGOs reported that slavery-related practices and slavery itself persisted in isolated areas of the country where a barter economy still prevailed, and also in urban centers like Nouakchott.

Young children in the countryside were commonly employed in herding, cultivation of subsistence crops, such as rice, millet, and sorghum, fishing, and other significant labor in support of their families' activities. Young children in urban areas often drove donkey carts and delivered water and building materials. In keeping with longstanding tradition, many children served apprenticeships in small industries, such as metalworking, carpentry, vehicle repair, masonry, and in the informal sector. Reporting by some human rights NGOs, including SOS Esclaves, strongly suggested that domestic employment of girls as young as seven, often unpaid, continued to be a problem. There was no child labor in the modern industrial sector.

There was a labor inspectorate with the authority to refer violations directly to the appropriate judicial authorities, but the eight regional inspectors and 30 inspector/controllers lacked the basic resources, such as transport and office equipment, needed to enforce existing child labor and other labor laws.

e. Acceptable Conditions of Work.—The nationally mandated minimum monthly wage for adults, which was not enforced, was 21,150 ouguiya (approximately \$81), which did not provide a decent standard of living for a worker and family. All workers are covered by the minimum wage law. Many labor unions denounced modern slavery conditions in several formal sectors such as the food-processing industry. In these sectors workers do not have contracts or pay stubs. Their salaries were below the guaranteed minimum wage and they worked in very unfavorable conditions. Sometimes they were not paid for several months.

The standard legal nonagricultural workweek could not exceed either 40 hours or six days without overtime compensation, which was paid at rates that were graduated according to the number of supplemental hours worked. Domestic workers and certain other categories could work 56 hours per week. All employees must be given at least one 24-hour period of rest per week. There are no legal provisions regarding compulsory overtime.

The Labor Directorate of the Ministry of Labor was responsible for enforcement of the labor laws, but there was a lack of effective enforcement due to inadequate funding.

The government set health and safety standards. The Ministry of Labor was responsible for enforcing these standards, but did so inconsistently due to inadequate funding. In principle, workers could remove themselves from hazardous conditions without risking loss of employment, but in practice they could not.

MAURITIUS

Mauritius is a constitutional parliamentary democracy of approximately 1.3 million citizens governed by a prime minister, a council of ministers, and a National Assembly. In 2005 the Social Alliance, a coalition led by Prime Minister Navinchandra Ramgoolam, defeated the party alliance of the Mauritian Militant Movement (MMM) and the Militant Socialist Movement (MSM) in national elections judged by international and local observers to be generally free and fair. Civilian authorities generally maintained effective control of the security forces.

The following human rights problems were reported: security force abuse of suspects and detainees; prison overcrowding; harassment and intimidation of journalists; official corruption; violence and discrimination against women; abuse and sex-

ual exploitation of children; discrimination against persons living with HIV/AIDS; restrictions on labor rights, antiunion discrimination, forced labor, including by children, and child labor.

RESPECT FOR HUMAN RIGHTS

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

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

On May 29, the court exonerated for lack of evidence four police officers involved in the 2006 death in custody of Rajesh Ramlugon, a detainee; the officers were initially accused of abuse of authority and of concealing evidence. On June 20, the daily *L'Express* reported that the director of public prosecutions (DPP) had appealed the exoneration to the Supreme Court, which had not heard the case by year's end. The officers remained free on bail.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution and law prohibit such practices; however, there continued to be reports of police abuses.

For example, on September 24, police arrested and beat a man who later claimed he also was sexually assaulted, according to media reports; the man was accused of obstruction, property damage, and assaulting a police officer. Doctors at a private clinic determined he had a skull fracture, bruising, and injuries to his genitalia and groin area. A police investigation was ongoing at year's end.

Prison and Detention Center Conditions.—There were reports of prisoner abuse, overcrowding, and drug abuse in the country's five prisons, although unlike in previous years, there were no reports that prison guards tortured prisoners. The Central Prison, which has a capacity of 946, held 1,281 prisoners at year's end. On November 30, there were 138 female prisoners and 2,216 male prisoners in the country's prisons; 12 boys and 20 girls were held in juvenile prisons.

Unlike in the previous year, the independent National Human Rights Commission (NHRC), which accompanied the UN subcommittee during its 2007 prison visits to the main island and Rodrigues Island, received no complaints of abuse from prisoners.

A prisoner in Central Prison died after being stabbed by another prisoner, according to a February 15 report in the newspaper *Week-End*. A police investigation was ongoing at year's end.

The government permitted prison visits by independent observers, including the press, the NHRC, local nongovernmental organizations (NGOs), and the UN. The local NGO Association Kinouete also ran programs to rehabilitate prisoners.

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

Role of the Police and Security Apparatus.—The police force is headed by a police commissioner who has authority over all police and other security forces, including the Coast Guard and Special Mobile Forces, a paramilitary unit that shares responsibility with police for internal security. The police commissioner reports directly to the Prime Minister's Office. Police corruption and abuse of detainees were problems.

The NHRC investigates allegations of police abuse and may report such cases to the Office of the DPP. By November 30, the NHRC had received 66 complaints of physical or verbal abuse by police: 18 complaints were withdrawn or dismissed for lack of evidence, four cases were referred to appropriate authorities for follow-up, and 44 cases remained under investigation.

During the year the governmental Independent Commission Against Corruption registered 88 complaints of corruption against police officers: 23 cases remained under investigation, and 65 were discontinued for lack of substantiation.

On June 8, the court sentenced a police officer who was initially arrested and released in 2007 to 18 months in prison for conspiring to facilitate the entry of Chinese citizens into the United Kingdom with fraudulent documents.

Orientation training for all new police recruits included a segment on human rights; management officers were required to take a refresher course which was offered several times yearly. More than 200 candidates who qualified on the basis of years of experience participated in human rights courses during the year.

Arrest Procedures and Treatment While in Detention.—The constitution and law require that arrest warrants be based on sufficient evidence and issued by a duly authorized official and that the accused be read his or her rights, including the right to remain silent and the right to an attorney. The law requires that suspects be brought before the local district magistrate within 48 hours. Police generally re-

spected these rights, although police sometimes delayed suspects' access to defense counsel. Detainees generally had prompt access to family members, although minors and those who did not know their rights were less likely to be provided such access. Indigent detainees facing serious criminal charges were provided an attorney at state expense. A suspect can be detained for up to a week, after which the person may bring the issue of bail before a magistrate. Alternatively, if police concur with the accused, that person may be released on bail the same day as the arrest. Individuals charged with drug trafficking may be detained for up to 36 hours without access to legal counsel or bail.

Due to a backlogged court system, approximately a third of the prison population was in pretrial detention. Pretrial detainees generally remained in remand for one to two years before being tried. In practice judges applied time served in remand to subsequent sentences.

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary, and the government generally respected judicial independence in practice.

The judicial system consists of the Supreme Court, which has appellate powers, and a series of lower courts. The Supreme Court has a chief justice and 16 other judges, who also serve on the Court of Criminal Appeal and the Court of Civil Appeal. Magistrates sit on intermediate courts, the Industrial Court, the Family Court, the Criminal Court, and the 10 district courts. Final appeal may be made to the Privy Council in the United Kingdom. Both the family and criminal courts heard cases throughout the year.

The DPP determines which court hears particular cases based on the severity of the crime and anticipated punishment if the defendant is found guilty. The DPP sends cases of crimes carrying a potential penalty of life imprisonment to the Supreme Court, crimes of medium severity to intermediate courts, and lesser crimes to district courts.

Trial Procedures.—Defendants enjoy a presumption of innocence, and trials are public. Juries are only used in murder trials. Defendants have the right to be present and to consult an attorney in a timely manner. An attorney is provided at public expense when indigent defendants face serious criminal charges. Defendants can confront or question witnesses against them and present witnesses and evidence on their own behalf. Defendants and attorneys have access to government-held evidence relevant to their cases, and defendants have a right of appeal. These rights were respected in practice, although an extensive case backlog delayed the process, particularly for obtaining government-held evidence. The law extends the above rights to all citizens.

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

Civil Judicial Procedures and Remedies.—There is an independent and impartial judiciary for civil matters. The law provides access to a court to bring lawsuits seeking damages for human rights violations. The constitution provides for an ombudsman to investigate complaints from the public and members of parliament against government institutions and to seek redress for injustices committed by a public officer or authority in official duties as an alternative to the court system. The ombudsman has the authority to make recommendations but cannot impose penalties on a government agency.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The constitution prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution and law provide for freedom of speech and of the press, and the government generally respected these rights in practice. However, police intimidated radio journalists, and officials used libel laws to suppress media criticism of political leaders.

Individuals could criticize the government publicly or privately without reprisal. The independent media were active and expressed a wide variety of views. There were five daily and 12 weekly newspapers and three private radio stations that offered diverse political viewpoints.

On December 2, police arrested the chief editor of Samedi Plus for an article that he wrote and published on June 20. Authorities accused the chief editor of publishing false news regarding potential candidates to replace the commissioner of police. Authorities released him on bail the same day, and an investigation was ongoing at year's end.

The government owned and regulated the sole domestic television network, and opposition parties and media experts regularly criticized the station for its progovernment bias and unfair coverage of National Assembly debates. International television networks were available by subscription or via a cable box.

Internet Freedom.—There were no government restrictions on the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics for 2008, approximately 30 percent of the country's inhabitants used the Internet.

Academic Freedom and Cultural Events.—There were no government restrictions on academic freedom or cultural events. Unlike in the previous year, police did not fine bookstore owners for carrying copies of *The Satanic Verses*, which has been banned since 1989.

b. Freedom of Peaceful Assembly and Association.—The constitution and law provide for freedom of assembly and association, and the government generally respected these rights in practice.

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

Foreign missionary groups were allowed to operate on a case-by-case basis. Although there were no regulations restricting their presence or proselytizing, each missionary was required to obtain both a resident permit and a work permit. The Prime Minister's Office must approve issuance of these documents, and in practice there were limits on the number of missionaries issued the requisite permits.

Societal Abuses and Discrimination.—Approximately 120 Jews resided in the country. Unlike in the previous year, there were no reports of graffiti on the walls of the local Jewish community organization's headquarters.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

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

Protection of Refugees.—The country is not a party to the 1951 Convention relating to the Status of Refugees, its 1967 Protocol, or the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa, nor do its laws provide for the granting of asylum or refugee status. The government has not established a system for providing protection to refugees. In practice, the government has not expelled or returned refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

In November 2008 the Passport and Immigration Office arrested six Iraqi citizens who entered the country with fraudulent documents and were en route to Australia to seek refugee status. The six were charged with entering the country on fraudulent documents and detained at the Central Prison. On March 25, the UN High Commission for Refugees granted them refugee status and the next day the six were released on bail. At year's end Amnesty International and the UN Development Program were assisting the refugees in their search for asylum in a third country.

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

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

Elections and Political Participation.—International and local observers characterized the 2005 national elections, in which the opposition Social Alliance defeated the ruling MMM-MSM alliance, as generally free and fair. Political parties operated without restriction or outside interference.

There were 12 women in the 71-seat National Assembly. Following the September 2008 cabinet reshuffle, there were two female ministers in the 22-member cabinet. Of the 17 Supreme Court judges, seven were women.

Although historically the Hindu majority dominated politics, no groups were excluded from the political system. Authorities required National Assembly candidates to identify themselves as Hindu, Muslim, Sino-Mauritian, or "general population," the latter term referring to the Creole and Franco-Mauritian communities. Based on these categories, in the National Assembly there were 41 Hindus, 19 members

of the general population, 10 Muslims, and one Sino-Mauritian. In the cabinet there were 15 Hindus, three Muslims, three members of the general population, and one Sino-Mauritian.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, but the government did not implement these laws effectively. There was a widespread public perception of corruption in the legislative and executive branches. The World Bank's most recent Worldwide Governance Indicators reflected that corruption was a problem.

On May 9, the local daily *L'Express* reported that the District Council of Pamplemousses-Riviere du Rempart paid 13.8 million rupees (\$460,000) above the agreed contract price to two cleaning companies; the Independent Commission Against Corruption (ICAC) was investigating the case at year's end.

On September 26, *L'Express* reported that the ICAC arrested the director of the National Art Gallery for bribing the board chairman to reappoint him as director; he was later released on bail.

On September 30, *L'Express* reported that the council of ministers cancelled a call for tenders to import flour after bidders protested tender criteria that favored a particular company.

The investigation of the former chairman of the Mauritius Ports Authority for allegedly accepting a bribe in 2006 from a Dutch dredging company was ongoing at year's end.

Ministers of Mauritius and commissioners of the Rodrigues Island Regional Assembly are required to make a disclosure of family assets, including the assets of spouses and children, upon taking office and at the dissolution of the National Assembly or of the Regional Assembly.

The law provides for access to government information, and the government generally complied with requests from noncitizens and foreign media as well as from citizens.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

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

Local human rights NGOs worked to assist persons with HIV/AIDS; rehabilitate former prisoners; promote women's rights; and support the lesbian, gay, bisexual, and transgender (LGBT) community. The government regularly consulted NGOs in formulating policy and worked in partnership with UN bodies and the local branch of Amnesty International.

Police harassed an NGO worker during the year (see section 6).

The president appoints an ombudsman to investigate complaints against public servants, police officers, and prison guards. Individual citizens, council ministers, or members of the National Assembly may request that the ombudsman initiate an investigation. The ombudsman also seeks redress for injustices committed by a public officer or authority in official duties as an alternative to the court system.

The government cooperated with international governmental organizations and permitted visits by UN representatives and other international organizations.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law specifically prohibit discrimination on the basis of race, caste, place of origin, political opinion, color, gender, disability, or language. While the government generally enforced these provisions, some societal discrimination occurred.

Women.—The law prohibits rape, including spousal rape, and police and the judicial system enforced the law. The penalty for rape is 20 years' imprisonment, with a fine not exceeding 200,000 rupees (\$833). From January 1 through November 30, police received 50 reported rape cases, of which 47 were prosecuted; some prosecutions led to convictions and punishment. Rape was widespread, and many victims chose not to report or file charges against their attackers due to cultural pressures and fear of retaliation.

The law criminalizes domestic violence; however, it was a major problem. Domestic violence activists complained police did not effectively enforce the law. During the year more than 1,700 domestic violence cases were reported; 415 abusers were prosecuted during the year. Anyone found guilty of violating a protection order may be fined up to 25,000 rupees (\$833) or imprisoned for up to two years. The local NGO SOS Femmes reported that women remained in abusive situations for fear of

losing financial support and that few filed complaints against their abusers. The Ministry of Women's Rights, Child Development, and Family Welfare maintained an abuse hotline and a Web site on legal protections for victims.

Prostitution is illegal; however, it was prevalent.

The law prohibits sexual harassment, which is punishable by up to two years' imprisonment. During the year the Sex Discrimination Division of the NHRC received 37 complaints; six involved sex discrimination, 15 involved sexual harassment, and 16 involved moral harassment. At year's end six cases remained under investigation, authorities dismissed nine for lack of evidence, the parties resolved 15 cases, plaintiffs withdrew two cases, and authorities completed five investigations.

The law provides for the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children, and to have the information and means to do so free from discrimination, coercion, and violence. Couples and individuals were provided access to contraception and skilled attendance during childbirth, including essential obstetric and postpartum care. Women were equally treated for sexually transmitted infections, including HIV.

Women played subordinate roles in society, and societal discrimination continued; however, women had equal access to education, employment, and government services. Women had equal access to credit and could own or manage businesses; however, women were paid less than men for substantially similar work in the private sector. The law criminalizes the abandonment of one's family or pregnant spouse for more than two months and the nonpayment of court-ordered food support. The law affords women broadly defined wage protections, and authorities generally respected the law in practice. The law protects women from being forced to carry loads above certain weight limits.

Children.—Citizenship is derived by birth within the country's territory. All births were registered, and the law provides for late registration. Failure to register births resulted in denial of some public services.

Primary education was compulsory, free, and universal.

Child abuse was more widespread than was acknowledged publicly, according to NGOs. The law criminalizes certain acts compromising the health, security, or morality of a child, although the government was unable to enforce complete compliance. The state-funded National Children's Council and the Ministry of Women's Rights, Child Development, and Family Welfare provided counseling, investigated reports of child abuse, and took remedial action to protect affected children. The Police Unit for the Protection of Minors conducted public education programs on the sexual abuse of minors.

On January 7, a 15-year-old boy from Rodrigues Island filed a complaint for indecent act against a foreign citizen with permanent resident status. A police investigation was ongoing at year's end.

Police investigations were ongoing in the following cases of child abuse from 2008: the January arrest of a foreign resident for sexually exploiting a 12-year-old girl with the consent of her aunt and uncle; the June arrest of a woman for sexually exploiting a 13-year-old girl; and the July arrest of three men for sexually exploiting a 12-year-old girl.

Child prostitution was a problem, and the government targeted the practice as a law enforcement and prevention priority. The law prohibits child prostitution and child pornography and provides for a maximum penalty of 15 years' imprisonment for child trafficking. The minimum age for consensual sex is 16 years.

The government assisted victims of child abuse by offering counseling at a drop-in center and referring victims to government-supported NGO shelters. Both medical treatment and psychological support were available at public clinics and NGO centers. For example, the national Children's Council operated a daycare center in Baie du Tombeau to help single mothers and abused children find employment.

Trafficking in Persons.—The law prohibits trafficking in persons, and there were few reports that persons were trafficked to or from the country; however, there were reports of child prostitution within the country. The law provides for up to 15 years' imprisonment for trafficking in persons. There were reports that some schoolgirls voluntarily worked in conjunction with prostitution rings, while others were forced into prostitution by family members.

Police prosecuted four trafficking cases during the year.

The Ministry of Women's Rights, Child Development, and Family Welfare maintained a hotline for reporting cases of child prostitution. The ministry also conducted information campaigns on child trafficking for NGOs, high school students, women, and community leaders. The Minors Brigade and the Family Protection Unit conducted information campaigns on child prostitution and child sexual abuse

for high school students and the general population. The government drop-in center provided shelter, counseling, and education for victims of child prostitution.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The law prohibits discrimination against persons with physical and mental disabilities, and the Training and Employment of Disabled Persons Board effectively enforced it. The government partially implemented a law mandating access to buildings for persons with disabilities; however, many older buildings remained inaccessible to persons with disabilities, making it difficult for them to fill many jobs. The law requires organizations employing more than 35 persons to set aside at least 3 percent of their positions for persons with disabilities, and the government enforced this law.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Local NGOs working on LGBT issues included Collectif Arc en Ciel, Vivre+, and PILS. LGBT victims of verbal abuse or violence within the family reported such incidents to Collectif Arc en Ciel; however, victims refused to file complaints with police for fear of reprisal.

Other Societal Violence or Discrimination.—The law protects the rights of persons living with HIV/AIDS from stigmatization and discrimination; however, there were reports of discrimination against such persons and their relatives.

On June 6, the local newspaper *Le Mauricien* reported that for 48 hours prison officials denied anti-retroviral treatment to a new detainee living with HIV. In the same article a Vivre+ social worker reported that HIV positive detainees at the Central Prison were forced to wear yellow badges so that they could be easily identified during routine medical checkups.

During the year PILS recorded seven cases of discrimination against HIV/AIDS patients and their relatives. Unlike in the previous year, there were no reports of denial of access to public health care services; however, PILS reported that breach of confidentiality regarding HIV/AIDS patients' medical records in public hospitals remained a problem.

On August 29, *Le Mauricien* reported that four police officers verbally and physically abused a Vivre+ social worker collecting for charity on the streets. During the incident the officers also revealed the NGO worker's HIV status to onlookers. The NGO worker filed a complaint with the Police Complaints Investigation Bureau, and a police investigation was ongoing at year's end.

Section 7. Worker Rights

a. The Right of Association.—The constitution and law provide for the right of workers to form and join unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice. With the exception of police, the Special Mobile Force, and persons in government services who were not executive officials, workers were free to form and join unions and to organize in all sectors, including in the Export Oriented Enterprises (EOE), formerly known as Export Processing Zone; however, the law grants authorities the right to cancel a union's registration if it fails to comply with certain legal obligations. There were 337 unions representing approximately 107,000 workers; 18 major labor federations served as umbrella organizations for smaller unions. The unionized workforce represented approximately 20 percent of the labor force.

In February the government promulgated the Employment Relations Act and the Employment Rights Act, which provide for a commission to investigate and mediate labor disputes and a program to provide unemployment benefits and job training.

The law allows unions to conduct their activities without government interference and provides for the right to strike; however, passage of the Employment Relations Act and Employment Rights Act during the year lengthened the process to declare a legal strike. According to the new legislation, a labor dispute must be reported to the Commission for Conciliation and Mediation (CCM) only after meaningful negotiations have occurred and a deadlock has been reached between the parties involved, a process that is not to exceed 90 days unless the parties involved agree. Once deadlock has been reported to the CCM, the commission has 30 days to resolve the dispute, or longer if both parties agree. If the dispute is not resolved at the commission level, parties can take the dispute to the Tribunal for Voluntary Arbitration (TVA) for settlement or go on strike within 45 days, provided the union has given the labor minister 10 days notice of the upcoming strike. The prime minister may petition the Supreme Court to prohibit the continuation of a strike deemed a danger to the life, health, or personal safety of the population. The prime minister may also apply to the TVA for the establishment of a minimum service if such service does not exist.

Worker participation in an unlawful strike is sufficient grounds for dismissal, but workers may seek remedy in court if they believe that their dismissals were unjustified. Foreign workers who participated in strikes can be deported.

b. The Right to Organize and Bargain Collectively.—The law protects collective bargaining, and workers exercised this right. The National Remuneration Board (NRB), whose chairman is appointed by the minister of labor, set minimum wages for nonmanagerial workers, although most unions collectively negotiated wages higher than those set by the NRB.

The law prohibits antiunion discrimination, and the government generally respected this right. The law does not provide for the reinstatement of dismissed employees; however, employees can resort to the Industrial Relations Court to seek redress.

Unlike in the previous year, no trade union leaders were suspended or dismissed for union activities. All six trade union leaders who had been previously suspended for union activities were reinstated during the year.

National labor laws cover workers in the EOE; however, there are some EOE-specific labor laws that authorize longer working hours, including 10 hours per week of mandatory paid overtime at a higher wage than for ordinary working hours. Some employers reportedly established employer-controlled work councils for EOE workers, effectively blocking union efforts to organize at the enterprise level. Approximately 59,000 persons worked in the EOE; only 10 percent belonged to unions.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, child labor occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits the employment of children below 16 years of age and prohibits the employment of children between 16 and 18 years old in work that is dangerous, unhealthy, or otherwise unsuitable for young persons. While the government generally respected this law, child labor occurred. According to the law, the penalties for employing a child are a fine of no more than 10,000 rupees (\$333) and imprisonment not to exceed one year.

Children worked in the informal sector as street traders, in small businesses, in restaurants, in agriculture, and in small apparel workshops.

The Ministry of Labor (MOL) is responsible for the enforcement of child labor laws and conducted frequent inspections; however, it employed only 45 inspectors to investigate all reports of labor abuses, including those of child labor.

The MOL developed vocational training programs to prevent employment of underage children.

e. Acceptable Conditions of Work.—The government established minimum wages, which varied by sector, and mandated that the minimum wage rise each year based on the inflation rate. The minimum wage for an unskilled worker in the EOE was approximately 607 rupees (\$20) per week, while the minimum wage for an unskilled factory worker outside the EOE was approximately 794 rupees (\$26) per week. Although these wages did not provide a decent standard of living for a worker and family, the actual market wage for most workers was much higher due to a labor shortage and collective bargaining. The MOL effectively enforced the minimum wage law.

The standard legal workweek in the industrial sector was 45 hours. According to the Mauritius Labor Congress, 10 hours of overtime a week is mandatory at certain textile factories in the EOE. By law no worker can be forced to work more than eight hours a day, six days a week. Those who work more than their stipulated hours must be remunerated at one and a half times the normal salary. Those who work during their stipulated hours on public holidays are remunerated at double their normal salary. For industrial positions, workers are not permitted to work more than 10 hours a day. If the worker has worked until or past 10 p.m., the employer cannot require work to resume until at least 11 hours have elapsed. These standards were generally enforced. Unions have reported cases of underpayment for overtime in the textile and apparel industries due to differences in existing legislation and remuneration orders for the calculation of overtime hours.

The government set health and safety standards, and MOL officials inspected working conditions; however, the inadequate number of inspectors limited the government's enforcement ability. Voluntary employer compliance with safety regulations helped reduce the number of occupational accidents. From January through November, the MOL registered 160 industrial accidents. Workers had the right to remove themselves from dangerous situations without jeopardizing their continued employment, and they did so in practice.

MOZAMBIQUE

Mozambique has a democratic constitution and an estimated population of 21.5 million. President Armando Guebuza was reelected in October in a contest criticized by several national and international observers, including the EU and the Commonwealth, as lacking a “level playing field” and faulted for lacking transparency, integrity, impartiality, and independence. Although election day itself was largely peaceful, donor nations, domestic and foreign observer groups, and local civil society expressed concern over the ruling party’s use of government vehicles to campaign and the electoral procedures which preceded the balloting, particularly the exclusion of six of nine presidential candidates and the disqualification of one opposition party’s parliamentary candidates from seven of 11 provinces. Freedom House has since removed Mozambique from its list of electoral democracies.

The Front for the Liberation of Mozambique (FRELIMO) has been the ruling political party since independence from Portugal in 1975. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted independently.

Incidents of serious human rights abuses, including vigilante killings, occurred during the year. Security forces continued to commit unlawful killings although the government took steps to prosecute perpetrators. Prison conditions remained harsh and life-threatening, resulting in several deaths. Arbitrary arrest and detention, as well as lengthy pretrial detention, were problems. An understaffed and inadequately trained judiciary was inefficient and influenced by the ruling party. Political and judicial decisions involving independent media outlets constrained press freedom. Societal problems including domestic violence, discrimination against women, abuse, exploitation, forced labor of children, trafficking in women and children, and discrimination against persons with HIV/AIDS remained widespread.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, security forces killed several individuals.

According to a 2009 report by Amnesty International (AI), unlawful killings were carried out with near impunity and perpetrators impeded families from pursuing justice. Despite claims that action was taken against police officers for such acts, few of these crimes were prosecuted, and there was a general lack of transparency in police accountability mechanisms.

Violence as a first resort, excessive use of force, and abuse by police remained problems. Between January 2006 and June, AI documented 26 incidents of police shooting resulting in at least 46 deaths. Many of these cases were not adequately investigated, and in most of the cases, no police officer was brought to justice for the killings. However, the local nongovernmental organization (NGO) Human Rights League (LDH) reported that authorities terminated and, in a few cases, brought criminal charges against some officers for disciplinary offenses during the year.

Police use of excessive force against striking laborers resulted in one death (see section 7.a.).

On September 11, the newspaper *O Pais* reported that the police shot and killed a 30-year-old for attempting to steal a side-view mirror. There were no further developments by year’s end.

High levels of crime in and around Maputo City and continued violence against police by criminal gangs were likely factors in the number of unlawful killings committed by security forces. An overly anxious police force responded with a strong show of force and often resorted to violence.

There was no further information available in the following 2008 cases: the February killing of five persons in Maputo and at least one other person in Chokwe who were protesting increases in the cost of living, and the August shooting death of a person in Maputo by a police officer during a personal dispute.

In September 2008 a Maputo public prosecutor indicted Criminal Investigation Police (PIC) agent Alexandre Francisco Balate of the 2007 killing of Abranches Afonso Pencelo. Balate was sentenced to 30 months’ imprisonment.

There were a few reports of death resulting from police abuse. Unlike in the previous years, there were no reported killings as a result of torture and other abuses by members of the Community Policing Councils (CPC), nonstatutory bodies set up by the Mozambican National Police (PRM) in many districts to prevent crime.

Landmine accidents resulted in deaths and injuries. The government continued to cooperate with donors and international organizations as well as commercial firms

to clear suspected landmine areas. Despite significant progress, landmines placed during the Rhodesian conflicts of the 1970s, the war for independence in the 1980s, and the civil war in the 1990s remained in many provinces. During the year hundreds of landmines were removed from the base of power transmission stanchions along a main transit corridor from the capital to the South African border.

Killings by vigilante groups continued to be a problem. The LDH and other civil society groups claimed these killings were related to the increased cost of living, high unemployment rates, sustained high levels of crime, lack of police presence in outlying metropolitan neighborhoods, and an ineffective justice system. Most targets of such killings were suspected muggers, thieves, sexual abusers, and drug dealers. While nationwide statistics were not available, the press and civil society reported killings by vigilantes, most of which occurred in and around major urban areas, including the capital city.

For example, on May 12, the press reported that a mob attacked and briefly occupied the police station in the southern town of Magude, in an attempt to seize and lynch a suspected murderer.

On October 25, health workers and Mozambican Red Cross (CVM) volunteers were accused of spreading cholera and attacked by irate mobs in the coastal city of Quinga. Three CVM volunteers were killed. The CVM volunteers were using chlorine to disinfect wells. Press reports speculated that part of the violence might have been due to a linguistic misunderstanding, given that Portuguese is not the first language for many residents. (The Portuguese word for “chlorine” sounds like the word for “cholera,” and neither word was commonly used.)

On December 17, a 13-year-old boy was beaten and burned to death by a mob in Beira for allegedly stealing four ducks.

There were no developments in the 2008 deaths of several persons at the hands of vigilante groups in Chimoio, Maputo, Matola, and Chokwe districts.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—While the constitution and law prohibit such practices, police continued to commit abuses. During the year human rights advocates and the media reported occurrences of torture and other cruel treatment, including several cases involving sexual abuse of women, beatings, and prolonged detention.

Following reports of torture and high rates of death among prison inmates in Tete, an observer group from the EU visited the prison. The group reported that torture of prisoners by guards had occurred and that the prisoners suffered from overcrowding, poor nutrition, lack of medical care, and overall unhealthy living conditions.

On March 17, 13 prisoners suffocated to death in an overcrowded jail cell in the northern district of Mogincual. On March 24, the General Command of the police set up a commission of inquiry to investigate the circumstances that resulted in their deaths. At year’s end the results of the investigation were pending.

Police use of excessive force against strikers resulted in death and injuries (see section 7.a.).

Prison and Detention Center Conditions.—Prison conditions remained harsh and life threatening.

The Administration for Prison Services, under the Ministry of Justice, operated 184 prisons in 10 provinces. The Ministry of Interior and the police are responsible for jails at police stations. During the year there were 14,309 prisoners, 66 percent of whom had been convicted and the rest detained awaiting trial.

Overcrowding remained the most serious problem. In 2008 the LDH noted that many prisons held more than three times the number of prisoners for which they were built and that often prisoners slept in bathrooms, standing up, or in shifts. For example, the most recent statistics available showed that Maputo Central Prison held 2,538 prisoners in a facility designed to hold 800, and the Inhambane Provincial Prison held 339 prisoners in a facility for 75.

During the year the LDH made 253 visits to prisons and detention facilities. Based on those visits, LDH noted the following characteristics of conditions in the prisons: harsh detention, inadequate food, poor hygiene, overcrowding, adults and juveniles held together, and prisoners kept beyond their sentences. The LDH described 35 facilities as “physically inadequate.”

Reports continued that most prisoners received only one meal a day. In many cases prison officials were not able to provide even basic food to the prison population. In the prisons visited, the LDH characterized the provision of food as “poor,” consisting mainly of corn meal (xima) and beans. It was customary for families to bring food to prisoners; however, there continued to be occasional reports that guards demanded bribes in exchange for delivering food to prisoners. In several pris-

ons inmates engaged in prostitution in exchange for food, according to the LDH. In May the UN Interregional Crime and Justice Research Institute (UNICRI) announced plans to reorganize the juvenile justice system with the creation of pre- and post-judgment centers for juvenile offenders to support the juvenile justice courts. According to UNICRI, 10 percent of juvenile offenders were women, and some juveniles had been held with adult populations in pretrial detention for as long as nine months. Juveniles were also intermixed with adults in the general prison population. The UNICRI program includes training for 500 members of the justice and legal sectors, including police and judges.

The LDH found malaria, tuberculosis, and HIV/AIDS to be commonplace among prisoners in nearly all prisons. The LDH also found other illnesses caused by malnutrition, including paralysis and blindness. Both healthy and sick prisoners regularly were kept in the same cells.

According to the LDH and confirmed by a report issued by the UNICRI, pretrial detainees were held with convicted prisoners, and, contrary to law, juvenile offenders were held with adults.

There continued to be many reported deaths in prison, the vast majority due to illness and disease, at rates much higher than the general population. Following their visit to Tete's prison, the EU noted that in the first three months of the year, 28 prisoners had died, most from "unknown" causes. Also, in September *O Pais* newspaper reported that two Zimbabwean prisoners died in March while in prison in Manica.

International and domestic human rights groups had access to prisoners, although at the discretion of Ministries of Justice and Interior. The LDH reported no problems obtaining credentials to visit prisons. Moreover, LDH president and founder Maria Alice Mabota announced that the LDH had entered into a memorandum of understanding with the Ministry of Justice allowing it to visit prisons unannounced. The LDH agreed to provide to the ministry any reports it planned to issue but would be free to publish its own independent findings.

d. Arbitrary Arrest or Detention.—While the constitution and law prohibit arbitrary arrest and detention, both practices continued to occur.

Role of the Police and Security Apparatus.—Forces under the Ministry of Interior, including the PIC, the PRM, and the Rapid Intervention Force, are responsible for internal security. An additional security body, the State Information and Security Service, reports directly to the president. The Casa Militar (Presidential Guard), provides security for the president. The armed forces are responsible for external security.

The police continued to be poorly paid, despite an increase in pay during the year. Trainee-level officers reportedly received approximately 3,100 meticaís (\$105) a month, while those at higher rank received approximately 4,500 meticaís (\$153) a month. Corruption and extortion by police were widespread, and impunity remained a serious problem. Police routinely removed their identification at checkpoints after dark and refused to identify themselves or their police precincts.

Police regularly detained persons for arbitrary reasons and demanded identification documents solely to extort payments. Many crime victims reportedly declined to seek police assistance because of expected demands for bribes and a lack of confidence that the police would help.

The most common reasons for disciplinary action, according to Maputo's police chief, were collaboration with criminals, extortion of goods and money, excessive alcohol consumption, and abandonment of post. During a May visit, AI was told by police officials that since 2005 a total of 356 police officers had been disciplined for breaching disciplinary regulations. Of these 108 were expelled from the police force, and 37 were convicted of criminal offenses. In AI's view, however, police discipline was inadequate and prosecution rare.

Implementation of the 2003-12 strategic plan of action and modernization for the PRM continued; seven of its nine "guiding principles" reflected respect for human rights. While the plan acknowledged the problem of abuse of police powers, it made no specific provision for ensuring greater accountability for such abuses.

Arrest Procedures and Treatment While in Detention.—Although the law provides that persons be arrested openly with warrants issued by a judge or prosecutor (except persons caught in the act of committing a crime), police continued to arrest and detain citizens arbitrarily. By law the maximum length of investigative detention without a warrant is 48 hours, during which time a detainee has the right to judicial review of the case. The individual may be detained another 90 days while the PIC continues its investigation. When a person is accused of a crime carrying a sentence of more than eight years, the individual may be detained up to an additional 84 days without being charged formally. With court approval, such detainees may

be held for two more periods of 84 days each without charge while the police complete their investigation. The law provides that when the prescribed period for investigation has been completed and no charges have been brought, the detainee must be released. In many cases the authorities either were unaware of these regulations or ignored them, often also ignoring a detainee's constitutional right to counsel and to contact relatives or friends. The law provides that citizens have access to the courts as well as the right to representation, regardless of ability to pay for such services. However, due to a shortage of legal professionals, indigent defendants frequently had no legal representation.

The bail system remained poorly defined. Prisoners, their families, and NGOs continued to complain that police and prison officials demanded bribes for releasing prisoners.

On October 26, musician Felix da Silva Manguane was detained for singing a song about corrupt traffic police who extort motorists. Manguane was held for several days and, according to his family, was threatened by police during his detention.

Although the government made some progress in alleviating judicial backlog, 34 percent of inmates were in pretrial detention.

There continued to be reports that detainees, subjected to often lengthy incarceration prior to the determination of their guilt or innocence, spent more time in pretrial detention than the length of the sentence they eventually received.

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary; however, according to civil society groups, the executive branch and the ruling FRELIMO party heavily influenced an understaffed and inadequately trained judiciary, particularly in the lower tiers. The judicial system continued to suffer from a lack of transparency and often did not comply with the principles of promotion and protection of human rights.

Intermediate appeals court and district court judges may rule on criminal cases with penalties ranging between eight and 12 years' imprisonment. Alternative measures such as work brigades, conditional release for prisoners who have completed half of their sentence, and traveling tribunals continued to be employed.

A shortage of judges and prosecutors hampered the effective administration of justice.

There were 271 judges (or approximately one per 80,000 inhabitants), 202 of whom held law degrees as required by law for all judges appointed after 2000. Most court employees had secondary school or university educations. Continuing problems included chronic absenteeism, unequal treatment, low salaries, corruption, deliberate delays, and omissions in handling cases.

The president appoints both the Supreme Court president and vice president. The Higher Judicial Magistrates' Council prepares Supreme Court nominations and submits a list of qualified potential nominees to the president. The president also makes all other judicial appointments.

Under the Supreme Court there are province and district-level courts, and each province has a court of appeal. There also are courts that exercise limited, specialized jurisdiction, such as the Administrative Court, the Customs Court, and the Maritime Court. The Constitutional Council is charged with determining the constitutionality of laws and decrees, supervising the electoral process, declaring and validating electoral results, and ruling on electoral disputes. A separate court system exists for minors 16 years of age and younger. The government may send minors to correctional, educational, or other institutions.

Trial Procedures.—Persons accused of crimes against the government are tried publicly in regular civilian courts under standard criminal judicial procedures. Members of the media may attend trials, although space limitations excluded the general public. A judge may order a trial closed to the media in the interest of national security or to protect the privacy of the plaintiff in a sexual assault case. Article 12 of the judicial organization law "prohibits the production and public transmission of images and sounds at trials." There is no trial by jury.

In regular courts accused persons are presumed innocent and have the right to legal counsel and appeal; however, authorities did not always respect these rights. Although the law specifically provides for public defenders for the accused, such assistance generally was not available in practice, particularly in rural areas. In some instances prisoners were required to pay their legal aid attorneys to persuade them to provide "free" legal assistance.

The Mozambican Legal Aid Institute, an organization under the Ministry of Justice, worked to ensure that accused persons were provided with court-appointed legal counsel if requested. However, due to a lack of trained lawyers, this was rarely possible. The LDH reported that most citizens remained unaware of this right, and

many had no access to legal counsel. Some NGOs offered limited legal counsel at little or no cost to both defendants and prisoners. Only judges or lawyers may confront or question witnesses, although all citizens have a right to self-defense. As such, they are allowed to present witnesses and evidence on their own behalf and have access to government-held evidence.

Outside the formal court system, local customary courts and traditional authority figures often adjudicated matters such as estate and divorce cases. Local arbiters with no formal training presided at customary courts.

Political Prisoners and Detainees.—Although there were no reports of political prisoners or detainees, there were many reports of questionable detentions and harassment of opposition political party members during the elections season.

Civil Judicial Procedures and Remedies.—While the law provides for an independent and impartial judiciary in civil matters, in practice the judiciary was subject to political interference. Although in theory citizens have access to courts to bring lawsuits seeking damages for, or cessation of, human rights violations, in practice this did not occur.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and law prohibit such actions, and the government generally respected these prohibitions in practice. However, opposition party members alleged that government intelligence services and ruling party activists continued without warrants to monitor telephone calls and e-mails, conduct surveillance of their offices, follow opposition members, use informants, and disrupt party activities in certain areas, including in Gaza and Zambezia provinces.

By law police are required to be in possession of a warrant to enter homes and businesses, but this practice was not always followed.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution and statutes provide for freedom of speech and of the press. Individuals can generally criticize the government publicly or privately without reprisal; however, some persons expressed fear that the government monitored their private telephone and e-mail communications.

On April 5, O Pais reported that in Tete Province, the governor threatened a journalist for writing an article critical of the provincial leader's governance.

In May during a high-profile murder case involving a police officer, plainclothes policemen issued death threats against journalists and attempted to prevent cameramen from taking photographs during the trial. The law governing trials states that the accused may not be photographed while giving evidence inside the courtroom, but there is no legal barrier to photographing accused persons on the public pavement as they enter or leave court.

In August the PIC in the northern province of Cabo Delgado demanded that a journalist reveal the identity of his sources for an article written in April that had agitated local military officers. The 1991 press law explicitly defends the right of journalists not to reveal their sources. According to the Media Institute of Southern Africa's annual report, although the independent media continued to rapidly expand and diversify, in general the media faced increasing harassment from the courts, prosecutors, and district administrators, particularly outside Maputo Province. In addition court rulings on libel cases involving several independent media outlets during the year constrained press freedom.

In September Alfane Momade Antonio, from Nacala Community Radio, was attacked on Mozambican National Resistance (RENAMO) premises while en route to an interview with the head of the RENAMO campaign in Nacala. The attack was reportedly carried out by party members due to Antonio's criticism of RENAMO. There were no further developments by year's end.

By some estimates newspapers reached only an estimated one million of the country's 21.5 million citizens. The government maintained majority ownership of Noticias, the main newspaper and one of three daily with nationwide distribution. Noticias, Diario de Mocambique, and the weekly Domingo largely mirrored the views of the ruling party. O Pais and Savana, among others, occasionally reported news items critical of government policies.

International media were allowed to operate freely.

Numerous private community and regional radio stations operated throughout the country. Radio Mocambique, which received 60 percent of its operating budget from the government, was the most influential media service with the largest audience. Although it broadcast debates on important issues, Radio Mocambique tended to invite participants who were less critical of the government.

The government supplied more than half of the operating budget for Televisao de Mocambique (TVM), the television station with the largest viewership. TVM's news

coverage demonstrated a bias favoring the incumbent government and ruling party FRELIMO.

Defamation of the president is prohibited. In August three Zambeze newspaper journalists were tried on charges of defamation and threatening state security over an article questioning the prime minister's nationality. They were convicted and sentenced to six months' imprisonment and fined 30 meticaís (\$1).

Internet Freedom.—Internet access was modest, and online communications did not play a significant role in the country. Although there were no government restrictions on access to the Internet, opposition party members reported that government intelligence agents monitored e-mail. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail and through political blogs. While public access to the Internet continued to expand, particularly in the larger cities, lack of infrastructure in rural areas and installation costs limited overall use. Cell phone use, including text messaging, was widely available and frequently used. According to International Telecommunication Union statistics for 2008, approximately 1.5 percent of the country's inhabitants used the Internet.

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

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The constitution and law provide for freedom of assembly. Although the government generally respected this right in practice, in September police stopped a demonstration called by war veterans demanding better living conditions. According to a report by AI, 19 persons were arrested and held for a few days before being released. At year's end their trial was pending.

Unlike in the previous year, security force use of excessive force did not result in demonstrator deaths (see section 1.a.).

Freedom of Association.—The constitution and law generally provide for freedom of association, and the government generally respected this right in practice.

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

The constitution and the law governing political parties specifically forbid political parties from directly affiliating with a religion or church and from sponsoring religious propaganda as threats to national unity.

Societal Abuses and Discrimination.—Relations among various religious groups were generally amicable.

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

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—While the law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, the government sometimes infringed upon these rights in practice.

Traffic checkpoints are legal and under the jurisdiction of traffic police. Checkpoints occasionally affected freedom of movement, and according to press reports, authorities sometimes abused and demanded bribes from citizens at checkpoints. Police sometimes stopped foreigners and ordered them to present original passports or resident papers, refused to accept notarized copies, and fined or detained those who failed to show proper documents. Police, including members of the CPCs, also routinely harassed, detained, and extorted bribes from local citizens for failure to carry identity papers.

The government respected the law forbidding forced exile.

Protection of Refugees.—The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. Its laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government cooperated with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting some 7,600 recognized refugees and asylum seekers.

The government continued to work closely with the UNHCR to implement a local integration program for longer-term refugees, primarily from the Great Lakes region, at the Marratane Camp located in Nampula Province.

The government provided modest assistance to Zimbabwean citizens crossing the border into the country. However, it considered Zimbabweans as economic migrants and supported a role for the UNHCR in providing assistance and protection to this group.

The government continued to limit refugee movement within the country. Refugees must request authorization to move outside the geographic region in which they have been registered. In addition refugees residing within the Marratane camp in Nampula Province must request authorization to leave its boundaries.

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

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

Elections and Political Participation.—On November 11, the National Elections Commission (CNE) announced that Armando Guebuza of the ruling FRELIMO party had been elected president in the October 28 multiparty general elections. While domestic and international observers noted that voting day procedures generally followed international norms, they also documented irregularities during voter registration, the campaign, and in the vote count. FRELIMO used significant state funds and resources for campaign purposes, in violation of electoral law.

In a statement released October 30, the Electoral Institute for Southern Africa questioned the transparency, integrity, impartiality, and independence of the CNE. It noted that improvements were required to “level the playing field, afford equal opportunity to all, and improve the transparency of the electoral process.”

The opposition parties RENAMO and Democratic Movement of Mozambique (MDM) complained of election fraud and noted that FRELIMO agitators and provocateurs routinely disrupted campaign stops, drowning out speakers and candidates by revving motors, playing instruments, shouting, and occasionally throwing stones. They alleged that local authorities failed to respond to such provocative acts and that FRELIMO candidates suffered no such impediments during their campaigns. Opposition parties also accused FRELIMO of using state funds and resources for campaign purposes, in violation of electoral law.

In August the Constitutional Council (CC) disqualified six of nine presidential candidates for application signature irregularities. The decision was not subject to appeal. In contravention of law and its own past practice, the CC did not provide the rejected candidates with notice or an opportunity to respond.

In September the CNE disqualified several political parties and candidates for participating in legislative elections. The MDM, for example, was stricken from nine of 13 legislative districts. The CNE’s action, which included backdating documents and questionable decisions, provoked protests from the diplomatic community, objections by civil society, and extensive commentary in the media.

In response to decisions by the CC and the CNE, the Center for Public Integrity called for an independent audit of electoral processes and highlighted several significant flaws in the electoral process. No such action was taken.

In the run-up to the elections, the coverage of the campaign by Radio Mocambique, Noticias, and Domingo was regarded by many political observers as balanced and neutral. However, the volume of coverage heavily favored incumbent President Guebuza over his opponents. Following the elections, the media reported observers’ praise for polling day but failed to note their harsh criticism of the CNE or the view that the playing field was not level.

The political process was dominated by FRELIMO and by the executive branch of government, and such influence continued to grow. In the October elections, FRELIMO secured approximately 75 percent of the presidential vote and more than 75 percent of the seats in parliament. In 1999 FRELIMO won 133 of 250 seats in the parliament. In 2004 it raised its plurality to 160 seats. In 2003 it controlled 28 of 33 municipalities. By 2008 FRELIMO mayors had been elected in 42 of 43 municipalities, and it had become the largest party in all municipal assemblies, controlling 79.8 percent of all seats.

Opposition political parties were permitted to operate but were subject to some restriction and interference by the ruling party, including unlawful arrest, unlawful disqualification of candidates, and other interference by the ruling party and the government.

Women, including the prime minister, and members of many ethnic groups held key positions in both the legislative and executive branches. There was no evidence that women or specific ethnic groups were excluded from participation in the political process. A total of 10 of 51 ministers and deputy ministers were women.

Section 4. Official Corruption and Government Transparency

While the law provides criminal penalties for official corruption, the government did not implement the law effectively, and officials engaged in corrupt practices with impunity. There are no laws against conflict of interest for government officials. No corruption cases involving high-profile individuals were concluded during the Guebuza administration; however, during the year several senior current and former government officials, including the former ministers of interior and transportation, were arrested on charges of corruption. Their cases remained pending, more than a year after their arrests.

Despite the government's strong anticorruption rhetoric, corruption in the executive and legislative branches was widely perceived to be endemic. The World Bank's Worldwide Governance Indicators reflected that corruption was a serious problem. Petty corruption by low-level government officials to supplement low incomes and high-level corruption by a small group of politically and economically connected elites continued to be the norm. In some cases high-level bribery was related to narcotics trafficking.

Corruption largely resulted from a lack of checks and balances, minimal accountability, and a culture of impunity. Local NGOs, such as the Center for Public Integrity, and media groups continued to be the main civic forces fighting corruption, reporting and investigating numerous corruption cases. The law requires that all members of the government declare and report their assets with the Constitutional Council, but it does not require that such information be made available to the general public. Aside from the minister of finance, no senior governmental official declared and reported his assets as required by law.

In January three senior executives of the national data processing center, including the director, were charged with theft of more than seven million meticaís (\$240,000). By year's end no judgment had been announced.

In September the Maputo Judicial Court charged several defendants, including the chairperson of the publicly owned Mozambican Airports Company (MAC), its former financial director, and a former transport and communications minister with diversion of state funds, demanding payment of 42 million meticaís (\$1.4 million). Two of the defendants had been in detention since October 2008. A trial continued at year's end and attracted prominent coverage by local media. The trial revealed that significant MAC funds were diverted to build a FRELIMO training center and to underwrite its 45th anniversary celebration, as well as to purchase real estate for MAC principals.

On September 27, in a case brought by Britain's Serious Fraud Office (SFO), the construction firm of Mabey and Johnson (M&J) was found guilty of systematically bribing government officials around the world, including in Mozambique. Carlos Frago, then national director of roads and bridges in the Ministry of Public Works, received payments of approximately \$460,000 into a Swiss account. Americo Fortuna of the Ministry of Foreign Affairs was paid approximately \$42,000. M&J records noted that he was "involved to some extent in the selection of eligible recipients." An engineer identified as "Mr. Notece" in the National Roads and Bridges Directorate was found by the SFO to have been paid 25,000 pounds sterling. There was no further information available at year's end.

The provinces also suffered from increased corruption. In March over one million meticaís (\$34,000) were missing from the Tete office of the National Institute of Social Security Tete office. In July Manica Governor Mauricio Vieira reported that a similar amount had disappeared from the Provincial Directorate of Education and Culture. In August four high-ranking officials from Tete's Provincial Directorate of Planning and Finance were accused of embezzling more than 144 million meticaís (\$4.9 million). On September 30, five employees of the Manica Provincial Department of Finance were detained for allegedly having obtained state funds intended to pay salaries. There were no further developments at year's end.

In March the investigating magistrate, Octavio Chumba, threw out 48 of the 49 charges against former interior minister Almerino Manhenje, reducing the damages sought from 322 million meticaís (\$12.3 million) to 500,000 meticaís (\$19,000). Manhenje had been charged in September 2008 with embezzlement of 211 million meticaís (\$8.3 million) of state money. Former president Chissano had publicly urged leniency, noting that others had committed worse offenses and remained at liberty.

There were no further developments in the 2007 and 2008 investigations into alleged corruption by Deputy Director of the Maputo Central Prison Arminda Parruque and six health services administrators in Cabo Delgado Province.

The Central Office for the Combat of Corruption (GCCC) functions as an autonomous unit under the Attorney General's Office with its own state budget. In a report released on December 9 to mark International Anti-Corruption Day, Director Ana

Maria Gemo stated the GCCC's central office and its 11 provincial branches investigated 403 corruption cases during the year. A total of 19 were brought to trial. She reported that the GCCC had reviewed 534 cases of theft of state funds and property, 27 of which had been brought to trial.

There were no laws providing for public access to government information, and in practice the government restricted citizens' and noncitizens' access to government information.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Although at times slow, government officials were often cooperative and responsive to their views. The registration and activities of foreign NGOs are subject to governmental regulation. Some foreign NGOs and religious groups reported that such registration regularly required several months.

UN agencies, the International Committee of the Red Cross, and international NGOs were resident in the country and had access to investigate human rights abuses. In August the Ministry of Justice agreed to work with the UN to draft and issue in 2011 its own human rights report.

Despite a 2005 constitutional amendment creating an independent ombudsman position to investigate allegations of abuses, including human rights violations, no person had been named to the position by year's end.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law prohibit discrimination based on race, gender, disability, language, or social status, but in practice discrimination persisted against women and persons with HIV/AIDS.

Women.—The law prohibits rape, including spousal rape, but it was not effectively enforced. Penalties range from two to eight years' imprisonment if the victim is 12 years of age or older and eight to 12 years' imprisonment if the victim is under the age of 12. While there were no official estimates as to the extent of spousal rape, it was regarded as a common problem. According to NGO reports, many families preferred to settle such matters privately through financial remuneration rather than through the formal judicial system. There were no reports of rape cases prosecuted during the year.

In July parliament passed a domestic violence law, which prohibits violence against women and nonconsensual sex, including between married individuals. The law also provides penalties of up to 12 years' imprisonment for engaging in sexual activity while knowingly infected with a contagious disease. No cases were brought to trial during the year.

Domestic violence against women, particularly spousal rape and beatings, remained widespread, and despite the new domestic violence law, NGOs reported that many women believed it was acceptable for their husbands to beat them. Cultural pressures discouraged women from taking legal action against abusive spouses. A survey indicated that 54 percent of female respondents admitted suffering an act of physical or sexual violence perpetrated by a man at some point in their lives, 37 percent in the last five years, and 21 percent during the past year.

The government and NGOs often worked together to combat domestic violence. The PRM operated special women and children's units in police squadrons that received cases of domestic violence, sexual assault, and violence against children; the units provided assistance to victims and their families. All 30 police squadrons in Maputo had women's and children's centers. In addition all police squadrons in the country installed a "green line" (a free telephone line) to receive complaints of violence against women and children; however, the lines were not fully operational by year's end.

Prostitution is not illegal, although it is governed by several laws against indecency and immoral behavior and restricted to certain areas. The practice was particularly prevalent along major transportation corridors and in border towns where long-distance truckers stop overnight. Young women without means of support were at the greatest risk for being drawn into prostitution.

Economic and political disturbances in Zimbabwe led to increased frequency of prostitution and sexual exploitation of Zimbabwean women who crossed the border into the country in search of better living conditions.

Sexual harassment is illegal; however, it was pervasive in business, government, and education. Although no formal data existed, the media reported numerous instances of harassment during the year. The law is based on the Portuguese penal

code from the 1920s; sexual harassment charges are usually regarded as acts of “indecent” with a maximum penalty of two years’ imprisonment.

The government recognized the right of couples and individuals to decide the number and timing of their children. Health clinics and local NGOs were permitted to operate freely in disseminating information on family planning under the guidance of the Ministry of Women and Social Action. There were no restrictions on the right to access contraceptives, but the continued high rate of HIV/AIDS suggested that they were not sufficiently used. Because there were few doctors and nurses in the country, most women gave birth at home and received little or no prenatal and postnatal care, unless the mother or child suffered more serious health complications. Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV/AIDS.

“Purification,” whereby a widow is obligated to have unprotected sex with a member of her husband’s family, continued to be practiced, particularly in rural areas. A Save the Children report on inheritance practices noted that 60 percent of women cited discrimination in the inheritance process and highlighted cases in which women lost inheritance rights for not being “purified” following the death of their husbands.

With the exception of some ethnic and religious groups, the groom’s family provided a dowry to the bride’s family, usually in the form of money, livestock, or other goods. Among Muslims, the bride’s family usually paid for the wedding and provided gifts. Some believed that these exchanges contributed to violence against women and other inequalities, due to the perception that the women subsequently were “owned” by their husbands.

The Family Law, which took effect in 2005, sets the minimum age of marriage for both genders at 18 for those with parental consent, and 21 for those without parental consent. The law also eliminates husbands’ de facto status as heads of family, and legalizes civil, religious, and common-law unions. While the law does not recognize new cases of polygamy, it grants women already in polygamous marriages full marital and inheritance rights. The law more precisely defines women’s legal rights with regard to property, child custody, and other issues. However, nearly four years after taking effect, a survey conducted by the NGO MULEIDE found that approximately 63 percent of women remained uninformed about the law.

Customary law was practiced in many areas. In some regions, particularly the northern provinces, women had limited access to the formal judicial system for enforcement of rights provided under the civil code and instead relied on customary law to settle disputes. Under customary law women have no rights to inherit an interest in land.

Women continued to experience economic discrimination, and they were three times less likely than men to be represented in the public and formal private employment sectors. They often received lower pay than men for the same work and were less likely to have access to credit.

Children.—Citizenship can be obtained by birth either in the country or of a Mozambican parent. Particularly in rural areas, births often were not registered immediately. Children who wish to start school at age six must be registered. Failure to register can also prevent one from obtaining health care and public documents, such as identity cards or passports.

Education is compulsory through age 12, but enforcement was inconsistent. Public education is free, but most families paid enrollment fees for each child and purchased books, uniforms, and other school supplies. Children who have a certificate that testifies that their parents’ incomes are below a certain poverty level are exempt from fees, but for most families, fees and associated costs remained a significant financial burden. Despite joint government/NGO initiatives in certain localities and districts to improve girls’ school attendance, completion rates for primary school students were approximately 41 percent for boys and 29 percent for girls.

The UN Children’s Fund noted that child abuse was a growing concern. Most child abuse cases involved sexual abuse, physical abuse, or negligence. Several cases of fathers sexually abusing their daughters were reported. Sexual abuse in schools was a growing problem. There were numerous press reports during the year focusing on the large numbers of high school-age girls becoming pregnant as a result of being coerced into having sex by their teachers.

Local custom, primarily in the northern provinces and in Muslim and South Asian communities, allowed underage marriage. The law prohibits pornography, child prostitution, and sexual abuse of children under 16 and prescribes prison sentences and fines for perpetrators; however, exploitation of children below the age of 15 continued, child prostitution remained a problem, and no instances of prosecution were reported. Child prostitution appeared to be most prevalent in Maputo, in Nampula, in Beira, at border towns, and at overnight stopping points along key transportation

routes. Child prostitution reportedly was growing in the Maputo, Beira, Chimoio, and Nacala areas, which had highly mobile populations and a large number of transport workers. Child prostitution also was reported in Sofala and Zambezia provinces. Some NGOs provided health care, counseling, and training in other vocations to children engaged in prostitution.

Children begging who appeared to be living on the streets were visible in major urban areas, but no nationwide figures were available.

Zimbabwean children, many of whom entered the country alone, continued to face labor exploitation and discrimination. They lacked protection due to inadequate documentation and had limited access to schools and other social welfare institutions. Coercion, both physical and economic, of Zimbabwean girls into the sex industry was common, particularly in the province of Manica.

Several government agencies, including the Ministry of Health and the Ministry of Women and Social Action, implemented programs to provide health assistance and vocational education for HIV/AIDS orphans, but as parents continued to die, the number of orphans increased.

The Maputo City Office of Women and Social Action continued its program to rescue abandoned orphans and assist single mothers who headed families of three or more persons. It also offered special classes to children of broken homes in local schools. NGOs sponsored food, shelter, and education programs in all major cities.

While the government continued to stress the importance of children's rights and welfare, significant problems remained. In 2008 the National Assembly passed a law on child protection. The law contains sections dealing with protection against physical and sexual abuse; removal from parents who are unable to defend, assist, and educate them; and the establishment of minors' courts to deal with matters of adoption, maintenance, and regulating parental power. By year's end no cases had been taken to court.

In May the Minister for Women's Affairs and Social Action, Virgølia Matabele, decried the lack of regulations for the law's implementation. The Southern African Network Against the Trafficking and Abuse of Children Executive Secretary Margarida Guitunga observed that such abuse was taking root in the country and expressed the fear that the massive influx of tourists expected for the World Cup in South Africa in 2010 would provide fresh opportunities for the sexual exploitation of women and children.

The Network against the Abuse of Minors (Rede Came) continued its efforts to put into practice the child protection law's provisions. It maintained a hotline call center and responded to hundreds of calls but lacked the resources to deliver meaningful assistance on a large scale.

Trafficking in Persons.—The law prohibits all forms of trafficking in persons; however, there were reports that persons were trafficked to, from, through, and within the country. Most trafficking victims were transported to South Africa on the highway from Maputo to Johannesburg. Some reports of trafficking to Swaziland also were reported. The majority of victims were women and children trafficked for the purpose of sexual exploitation and forced labor. To a lesser extent, boys were trafficked for labor on South African farms and in mines, and girls were trafficked for use in prostitution and domestic servitude. International NGOs noted concerns about a possible increase in trafficking of women and children for sexual exploitation in South Africa during the 2010 soccer World Cup competition.

Traffickers were principally citizens or South Africans. Trafficking groups included small networks of citizens based in Maputo and Nampula, and there were reports that Chinese, Pakistani, and Nigerian organized crime groups were involved. Traffickers often lured victims by promising better jobs or education in South Africa. Once there, they were threatened with exposure of their illegal status and forced to work for little or no pay. Often women were sexually assaulted en route to their destinations or once they arrived in South Africa and Swaziland. There were also reports that international syndicates trafficked victims from Asia, South Asia, and East Africa through the country en route to South Africa. Small numbers of children and adults reportedly were trafficked to Zambia for agricultural labor, and Zimbabwean women and girls were trafficked to Mozambique for sexual exploitation and domestic servitude.

The law provides for penalties of 16 to 20 years' imprisonment for those recruiting or facilitating exploitation of a person for purposes of prostitution, forced labor, slavery, or involuntary debt servitude; however, there were no convictions or arrests under the trafficking law during the year. The government's law enforcement efforts increased, although at year's end regulations that describe implementation of the new trafficking law had not been published by the Ministry of Women and Social Action. Law enforcement authorities were hesitant to charge persons under the trafficking law due to a lack of published regulations. Following passage of the

antitrafficking law, the PRM created a special unit to deal specifically with apprehensions, investigations, and reintegration. This unit developed special facilities to support victims of trafficking, including one in the capital city.

The Mozambican woman implicated in the “Diana Case” was on trial at year’s end in South Africa. She was alleged to have trafficked Mozambican girls to Pretoria for forced prostitution.

Due to a lack of resources, government officials regularly called on NGOs for the provision of protection and assistance to victims, including shelter, food, counseling, and rehabilitation. The police conducted general training on trafficking and detecting at-risk children.

The Department of State’s annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—Although the constitution and law stipulate that citizens with disabilities shall fully enjoy the same rights as all other citizens, the government provided few resources to implement this provision, and persons with disabilities could frequently be seen begging at traffic intersections, often accompanied by able-bodied persons. Discrimination was common against persons with disabilities in employment, education, access to health care, and the provision of other state services. The law does not mandate access to buildings for persons with disabilities, but the Ministry of Public Works and Habitation worked to ensure that public buildings in Maputo city provided access to persons with disabilities. Electoral law provides for the needs of voters with disabilities in the polling booths.

Concerns of persons with disabilities included lack of access to socioeconomic opportunities and employment, limited access to buildings and transportation, and a lack of wheelchairs. Special access facilities were rare. There were few job opportunities for persons with disabilities in the formal sector.

The country’s only psychiatric hospital was overwhelmed with patients and lacked the means to guarantee basic nutrition, medicine, or shelter. Doctors at the hospital also reported that many families abandoned members with disabilities.

Veterans with disabilities continued to complain about not receiving pensions.

The Ministry of Women and Social Action is responsible for protecting the rights of persons with disabilities. The four-year National Action Plan in the Area of Disabilities announced in 2006 had not received any financing for implementation by year’s end.

The city of Maputo offered free bus passes to persons with disabilities.

National/Racial/Ethnic Minorities.—There were reports of tension between newly arrived Chinese guest workers, often employed in construction, and citizens in the cities of Maputo and Beira.

There were reports of discrimination by police against Zimbabwean immigrants during the year.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—There were occasional reports of such discrimination, and the LDH reported cases of discrimination against gay men and lesbians in the courts. The Workers Law includes an article that prevents discrimination in the workplace based on a number of factors, including sexual orientation.

The government does not track and report discrimination or crimes against individuals based on sexual orientation or gender identity, nor were such abuses reported in the media.

Other Societal Violence or Discrimination.—The law prohibits discrimination against workers on the basis of HIV/AIDS status, and the Ministry of Labor generally intervened in cases of perceived discrimination by employers. The Ministry of Labor reported receiving more than 100 cases annually of workers being dismissed by their employers for having HIV/AIDS. Often workers were obligated by the employer to take HIV/AIDS tests. In response to these violations, the ministry registered the complaints and confronted companies responsible for dismissals.

Kukuyana, a national network of women with HIV/AIDS, reported that many women were expelled from their homes and/or abandoned by their husbands and relatives because they were HIV positive. It also reported that some women who were widowed by HIV/AIDS were accused of being witches who purposely killed their husbands to acquire belongings, and in retribution they were deprived of all possessions.

Because some traditional healers assert that their body parts contained special curative or sexual strength, persons with albinism were the subject of violent attacks that resulted in mutilation or death.

Section 7. Worker Rights

a. The Right of Association.—The constitution and law provide that all workers are free to form and join a trade union of their choice without previous authorization or excessive requirements, except for firefighters, members of the judicial authorities, and prison guards; workers exercised these rights in practice. Some unions alleged that the Mozambican Workers Association was under the influence of FRELIMO. By law both private and public workers are permitted to form unions and to strike. Concerted work actions, such as strikes, were infrequent but did occur.

On October 1, Noticias reported that approximately 400 employees of the Grindrod Coal Terminal near the port of Maputo, on strike since September 24, had returned to work pending final resolution of their disputes after mediation by the provincial Labor Directorate.

At the end of April, laborers at the new national stadium in the outer Maputo district of Zimpeto went on strike for the second time in three months. They asserted that they were receiving 63.85 meticaïs per day (\$2.18), less than the statutory minimum wage, and that the Chinese contractor employing them had agreed to pay 93.85 meticaïs (\$3.20). Police fired live rounds to disperse the workers, resulting in the death of one demonstrator and the injuring of two others. Eyewitnesses stated that the police aimed to kill, not to injure.

b. The Right to Organize and Bargain Collectively.—Although the law provides for the right of workers to organize and engage in collective bargaining, such contracts covered less than 2 percent of the work force. The government did not set private sector salaries. Unions were responsible for negotiating wage increases.

The law prohibits antiunion discrimination; however, there were reports that many companies continued to engage in antiunion discrimination by replacing persons at the end of contracts, dismissing workers for going on strike, and not abiding by collective bargaining agreements.

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

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children. Nonetheless, forced prostitution and domestic servitude occurred. There were also numerous reports of children forced to work as domestic workers and in the agricultural sector.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits child labor; however, it remained a problem. In the formal economy, the minimum working age without restrictions is 18 years of age. The law permits children between ages 15 and 18 to work, but the employer is required to provide for their education and professional training and to ensure that conditions of work are not damaging to their physical and moral development. Children between the ages of 12 and 15 are permitted to work under special conditions authorized jointly by the Ministries of Labor, Health, and Education. For children under the age of 18, the maximum workweek is 38 hours, the maximum workday is seven hours, and they are not permitted to work in occupations that are unhealthy or dangerous or require significant physical effort. Children must undergo a medical examination before beginning work. By law children must be paid at least the minimum wage or a minimum of two-thirds of the adult salary, whichever is higher.

Although the law prohibits forced and bonded labor by children, it was considered to be a common problem, especially in rural areas. Many children in rural areas were forced to work, particularly in commercial agriculture, as domestics, as well as to engage in prostitution. Children, including those under age 15, commonly worked on family farms in seasonal harvests or on commercial plantations, where they picked cotton or tea leaves and were paid on a piecework basis for each piece of work completed rather than an hourly minimum wage.

The Ministry of Labor regulates child labor in both the informal and formal sectors. Labor inspectors may obtain court orders and use police to enforce compliance with child labor provisions. Violations of child labor provisions are punishable with fines ranging from one to 40 months of salary at minimum wage. Enforcement mechanisms generally were adequate in the formal sector but remained poor in the informal sector. The labor inspectorate and police forces lacked adequate staff, funds, and training to investigate child labor cases, especially in areas outside the capital where a majority of the abuses occurred. Although the government provided training for police on child prostitution and abuse, there was no specialized child labor training for the labor inspectorate. The government disseminated information and provided education about the dangers of child labor to the general public.

e. Acceptable Conditions of Work.—Trade unions estimated that a minimum livable monthly wage to provide for a family of five was approximately 5,000 meticaïs

(\$170). There are 11 different minimum wages averaging approximately 2,300 meticals (\$78.55) across nine employment sectors: agriculture; mining; fisheries; manufacturing; electricity, gas and water; construction; financial; nonfinancial; and state employees. The national minimum wage does not provide a decent standard of living for a worker and family.

Although the industrial sector frequently paid above minimum wage, there were few industrial jobs outside of the Maputo area. In addition less than 10 percent of workers held salaried positions, and the majority of the labor force worked in subsistence farming. Many workers used a variety of strategies to survive, including finding a second job, maintaining their own gardens, or depending on the income of other family members.

The Ministry of Labor is responsible for enforcing the minimum wage rates in the private sector and the Ministry of Finance in the public sector. Violations of minimum wage rates usually were investigated only after workers registered a complaint. Workers generally received benefits, such as transportation and food, in addition to wages. The standard legal workweek is 40 hours but can be extended to 48 hours. After 48 hours overtime must be paid at 50 percent over the base hourly salary. Overtime is limited by law to two hours per day and 100 hours per year. The law provides for one hour of rest per day. Foreign workers are protected under the law.

In July Manica Governor Mauricio Vieira cited China Henan International Cooperation Group for several labor and safety violations. Some of the badges of Mozambican workers were reported to bear the word "escravo" (slave).

On September 3, *O Pais* newspaper reported that postal workers in the province of Inhambane had not been paid for seven months. Minister of Labor Helena Taipo met with union representatives to address their concerns, but by year's end no results or changes had been announced.

Frequent worker complaints included failure by employers to deposit social security contributions that had been deducted from wages, inability to obtain social security benefits, unlawful firings, and intimidation of union members.

In the small formal sector, health and environmental laws were in place to protect workers; however, the Ministry of Labor did not effectively enforce these laws, and the government only occasionally closed firms for noncompliance. There continued to be significant violations of labor laws in many companies and services.

Foreign experts, including much-needed medical professionals, continued to have difficulty obtaining work visas. In July the Ministry of Labor announced that 280 unlawful foreign workers had been relieved of their positions.

In theory workers have the right to remove themselves from situations that endangered their health and safety without jeopardy to their employment; in practice, however, threats of dismissal and peer pressure restricted this right. There were no special provisions for foreign and migrant workers. In April the Ministry of Labor reported that in the previous 12 months, it inspected workplaces affecting 353,579 employees and noted 1,550 labor accidents resulting in injury or fatality.

NAMIBIA

Namibia is a multiparty democracy with a population of approximately two million. The presidential and parliamentary elections held November 27 and 28 resulted in the re-election of President Hifikepunye Pohamba and the retention by the ruling South West Africa People's Organization (SWAPO) of its parliamentary majority. Both the president and SWAPO won more than 75 percent of the vote. Despite some irregularities, international observers characterized the election as generally free and fair. Several opposition parties have challenged the outcome in court, and the case was pending at year's end. Civilian authorities generally maintained effective control of the security forces.

Human rights problems included police use of excessive force; poor conditions in prisons and detention centers; arbitrary arrest, prolonged pretrial detention and long delays in trials; limitations on press freedom; criticism of nongovernmental organizations (NGOs); harassment and political intimidation of opposition members; and official corruption. Societal abuses included violence against women and children, including rape and child abuse; discrimination against women, ethnic minorities, and indigenous people; and child labor.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings.

The investigation into the February 2008 case in which a police officer shot and killed a demonstrator who stabbed a police constable was ongoing at year's end.

There were no developments in the 2007 suffocation death of William Cloete, who died in a shipping container that police in the town of Rosh Pinah used as a detention center.

The trial of nine police officers accused of killing a suspect during interrogation in 2006 was ongoing at year's end.

On March 6, 14 police officers accused of the 2005 beating of five men, one of whom died from his injuries, were acquitted of all charges; two other police officers charged in the case were acquitted in 2008.

Following the discovery of six mass graves along the country's border with Angola in August 2008, the National Society for Human Rights (NSHR) submitted a dossier to the UN Working Group on Enforced or Involuntary Disappearances, alleging that the graves could be linked to "enforced disappearances" in Caprivi and Kavango regions between 1994 and 2003. The UN subsequently requested that the government confirm the allegations and explain any steps taken to address the discovery. By year's end the government had not provided an explanation. In 2008 the government investigated one of the six grave sites, which contained the remains of five political activists who were killed without trial by South African security forces in 1972. Government officials claimed the site was well known and did not represent a new finding. None of the other mass graves had been investigated by year's end.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution and law prohibit such practices; however, police sometimes used excessive force when apprehending, interrogating, and detaining criminal suspects.

Windhoek City police mistreated suspects in a secret cell before handing them over to the main police station, according to media reports. Police denied the accusations, and no investigation had been conducted by year's end.

In September, in Kalkrand, authorities filed criminal charges against four police officers for allegedly assaulting two residents, Gerhard Lodewyk and Johannes Kooper, who were accused of stealing a gas cylinder from a police officer's home. The trial had not started by year's end.

In May police use of force to disperse demonstrators resulted in injuries (see section 2.b.).

Prison and Detention Center Conditions.—Prisons and detention centers were overcrowded, were poorly maintained, and lacked basic sanitation and adequate food. Guards sometimes abused prisoners. In April 2008 the newspaper *The Namibian* reported that Windhoek Central Prison held 1,172 prisoners—almost 30 percent more than its official capacity of 912 prisoners. The government-owned newspaper *New Era* reported during the year that one police holding facility designed to accommodate 105 persons held 224.

Conditions of police holding cells showed little change since a 2008 ombudsman's report cited the cells for poor sanitary conditions, overcrowding, insufficient food, unsafe infrastructure, and lack of access to medical care and potable water. In April *The Namibian* reported that police holding cells at the Windhoek, Wanaheda, and Katutura stations, which together have a capacity of 705 persons, held approximately 1,079 pretrial detainees. The Wanaheda police station, with a capacity of about 180 persons, held 325 suspects, while the Windhoek police station, built to hold 100 suspects, housed at least 253.

Minister of Safety and Security Nickey Iyambo, who visited a number of police holding facilities in June, criticized their poor conditions.

In July inmates at the Katutura police station set fire to trash bins and threw sewage at police officers to draw attention to their conditions.

Victims of prison abuse were able to pursue legal remedies, although lengthy delays were common. For example, in April the prosecutor general began to prosecute five Keetmanshoop police officers and their station commander for negligence in connection with the 2007 death of Noel Thompson, who died after being attacked by another inmate. The court case was ongoing at year's end.

Some detainees were held with convicted prisoners, and juveniles continued to be held with adults in many rural areas. In August a 15-year-old boy who was arrested for theft allegedly was imprisoned with adult males who sexually assaulted him. The Rainbow Project, a group that lobbies for the rights of lesbians, gays, bisexuals,

and transgender persons, provided legal counsel to the victim. An investigation was pending at year's end.

The government continued to grant both local and international NGOs regular access to prisons and prisoners. In January, May, and December, the International Committee of the Red Cross (ICRC) visited prisons and detention centers. The government required that media representatives seeking to visit prisons apply in writing to the commissioner for prisons; however, the government rarely acceded to such requests. Media representatives were allowed to accompany the minister of safety and security on his prison tours.

Suspects in the Caprivi treason trial continued to complain of poor medical services and intimidation of their visitors by prison officials.

Pilot programs, such as placing youths in shelters and foster homes, provided alternatives to incarceration for juvenile offenders. During the year the government expanded its community service pilot project from four to all 13 of the country's regions; the program provides an alternative to incarceration for adults and juveniles convicted of petty crimes. The NGO CHANGE, led by a former deputy minister for prisons, also offered counseling, skills training, and job placement to former inmates.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest or detention; however, the government did not always observe these prohibitions.

Role of the Police and Security Apparatus.—The Namibian Police Force (NAMPOL), which has approximately 12,000 members, is under the Ministry of Safety and Security. The Namibian Defense Force (NDF), which has approximately 16,000 members, is under the Ministry of Defense. Both NAMPOL and the NDF were responsible for internal security. NAMPOL is highly centralized with regional commands responsible to the inspector general of police. Approximately half of NAMPOL's overall complement is assigned to the Special Field Force (SFF), a paramilitary unit composed primarily of combatants from the former People's Liberation Army of Namibia. SFF members were assigned to guard duty, checkpoints, and the maintenance of public order. NAMPOL lacked the resources, training, and personnel to effectively deter or investigate street crime.

Police corruption and impunity were problems.

In April police arrested traffic officer Jacobus Coetzee on bribery charges; in exchange for bribes Coetzee allegedly destroyed traffic tickets he had issued, primarily to taxi drivers.

On May 12, police constable Lawrence Foreman arrested Hendrik Mathews for possessing cannabis; Mathews allegedly had 10,350 Namibian dollars (\$1,377) in his possession at the time of arrest. When only 4,100 Namibian dollars (\$546) were returned when he was released on bail, Mathews filed theft charges against Foreman for the missing 6,250 Namibian dollars (\$832). Mathews also claimed that he had more than 100 grams of cannabis when arrested, but that he was charged for possessing only 100 grams.

In June the Anticorruption Commission (ACC) arrested police constables Chris Garoeb and Paul Jarson for allegedly impersonating immigration officials and defrauding a foreign tourist of 1,800 Namibian dollars (\$240). An investigation was ongoing at year's end.

In August the weekly Informante reported that more than 20 million Namibian dollars (\$2.7 million) in cash, drugs, counterfeit traveler's checks, and other valuables confiscated from suspects and kept as evidence had vanished from police safes since the beginning of the year. Other media outlets made similar allegations during the year.

In April Andrew Iyambo, the deputy commissioner of police for Erongo Region who was suspended in 2007 for misappropriating funds, was acquitted of all charges and reinstated in his position.

There were continued reports that police officers threatened to arrest prostitutes who did not agree to give them free sex.

Although some security force members accused of abuse and corruption were arrested and tried in military courts or the civilian criminal justice system, the government took no action against others.

Police continued to receive human rights training designed by the Windhoek-based NGO Legal Assistance Center (LAC). Some officers attended training programs with human rights components, including human trafficking, at the International Law Enforcement Academy in Gaborone, Botswana.

Arrest Procedures and Treatment While in Detention.—Arrest warrants are not required in all cases, such as when a suspect is apprehended during the commission of a crime. Persons arrested must be informed of the reason for their arrest and

brought before a magistrate within 48 hours of their detention, but the government did not always respect these provisions in practice. Detainees generally were promptly informed of the charges against them. Those accused are entitled to defense by the legal counsel of their choice, and those who cannot afford a lawyer are entitled to state-provided counsel. However, many prisoners could not afford counsel, and indigent persons were not always provided counsel primarily due to an insufficient number of public defenders. There is a functioning bail system, and detainees generally were allowed prompt access to family members. Under a state of emergency, however, the constitution permits detention without trial, although the names of detainees must be published in the government's gazette within 14 days, and an advisory board appointed by the president must review their cases.

The NSHR recorded 12 cases of arbitrary arrest during the year.

In January—five years after the last arrest in connection with the Caprivi high treason trials following the attacks on government institutions in 1999—police arrested Albius Moto Liseli on treason charges. Liseli's name had been mentioned during a trial that concluded in 2007 as an alleged participant in the secessionist movement. The NSHR issued a press statement claiming the police threatened Liseli's mother and forced her to sign a document implicating her son in the secession plot. The prosecutor general had not decided whether to prosecute Liseli by year's end.

On February 4, Windhoek City police assaulted, arrested, and detained without charge Timoteus Amunyela, a youth who was walking around the city looking for employment, according to the NSHR. Amunyela was released the following day.

On September 14, the NSHR reported that an intoxicated police officer arbitrarily arrested and assaulted Lukas Nekongo, who subsequently filed criminal charges against the police officer. No action had been taken on the case by year's end.

Unlike in the previous year, there were no reports of police arresting and detaining homeless children. After the 2008 arrests of such children, the Minister of Gender Equality and Child Welfare condemned the police action and demanded an end to the practice. Most homeless children who were arrested were placed into childcare shelters.

Unlike in the previous year, there were no reports that security forces arrested opposition members.

A trial must take place within "a reasonable time," or the accused must be released; however, lengthy pretrial detention was a problem. Approximately 8 percent of the general prison population was awaiting trial. The lack of qualified magistrates and other court officials, the high cost of legal aid, slow or incomplete police investigations, and the continued postponement of cases resulted in a serious backlog of criminal cases and delays of years between arrest and trial.

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary, and, while the courts continued to act independently and at times made judgments and rulings critical of the government, inefficiency and a lack of resources hampered the judicial system.

The formal court system has three levels: 30 magistrate courts; two high courts; and the Supreme Court, which served as a court of appeals and constitutional review court. Military courts try members of the military only and do not provide the same rights as civil criminal courts. Customary courts heard most civil and petty criminal cases in rural areas. The law delineates which offenses may be dealt with under the customary system.

Most rural citizens first encountered the legal system through the customary courts, which deal with infractions of local customs among members of the same ethnic group. The law delineates the role, duties, and powers of traditional leaders and provides that customary law is invalid if it is inconsistent with the constitution.

Trial Procedures.—The constitution and law provide for the right to a fair trial, but this right was limited by long delays in hearing cases in the regular courts and the uneven application of constitutional protections in the customary system. The remaining 117 Caprivi treason detainees imprisoned in Windhoek, for example, have been detained since 1999 and awaiting the completion of their trials since 2004. The law provides for public trials but not juries. Defendants have the right to be present at trial, to consult with an attorney in a timely manner, and along with their attorneys to have access to government-held evidence. Indigent defendants are entitled to a lawyer provided by the state; however, this often did not occur due to an insufficient number of public defenders. Defendants are presumed innocent, can confront witnesses, can present witnesses and evidence on their behalf, and have the right of appeal. The law extends these rights to all citizens.

Three of the 127 civil suits stemming from alleged mistreatment of Caprivi treason detainees while in custody were heard during the year; the court ruled in favor

of the Ministry of Home Affairs in one case, and two cases remained pending at year's end.

Procedural problems continued to delay the Caprivi high treason trials. In July a major state witness was involved in a serious road accident, further delaying the trial. During the year a judge ruled that 10 Caprivi detainees sentenced in 2007 could appeal their sentences; however, no hearings on appeals had begun by year's end.

The trial of two ethnic Mafwe witnesses who appeared in court in 2006 on charges of perjury and obstruction of justice for denying statements they had made to investigators in the Caprivi treason trial was ongoing at year's end. The two, who remained incarcerated, claimed their statements were obtained under duress inflicted by security forces.

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

Civil Judicial Procedures and Remedies.—There exists an independent judiciary in civil matters, which is widely perceived as impartial. The law provides for access to a court to bring lawsuits seeking damages for, or cessation of, human rights violations. The constitution provides for administrative justice as well as judicial remedies for alleged wrongs. Civil court orders were mostly well enforced.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution prohibits such actions, and the government generally respected these prohibitions in practice; however, in November the government enacted the Communications Act, popularly known as the “Spy Bill,” after intense public debate. The Act allows the intelligence services to monitor e-mails and Internet usage with authorization from a magistrate. The legislation also permits the interception of telephone calls and cell phone text messages. In an unusual move, the National Council, the upper house of parliament, sought testimony from the public, including journalists and civil society representatives, many of whom argued that interception should only be authorized by the judge president of the High Court or a judge assigned by the judge president. Despite such objections, the National Council passed the bill without any amendments. Opponents called the law an invasion of privacy and a violation of the right to freedom of expression.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of speech and of the press; however, the government partially limited press freedom. Some independent and government journalists practiced self-censorship.

The 2009 Communications Act establishes the Communications Regulatory Authority of Namibia (CRAN) to regulate communications, including the media. The legislation does not specify how the media will be regulated. The CRAN's other duties include setting up a licensing framework for both telecommunications and broadcasting, determining interconnection tariffs, allocating radio and telecommunication frequencies, promoting competition in the telecommunications industry, and establishing telecommunications data (such as Internet and telephone) interception centers.

There were four daily national newspapers, three of which were independent, and four independent weekly newspapers. The New Era newspaper and the Namibian Press Agency were both parastatals, whose boards the minister of information and broadcasting appointed. The government shared equal ownership of the regional weekly newspaper Southern Times with the government of Zimbabwe. The ruling SWAPO party owned one publication, Namibia Today.

On February 2, the SWAPO Party Elders' Council called on The Namibian to stop publishing cell phone text messages that criticized President Pohamba and former president Nujoma, charging that the messages fueled chaos and anarchy. The Namibian did not heed the request, and the Elders' Council took no action to convince the government to impose the proposed ban.

In a September 7 article, The Namibian charged the Electoral Commission of Namibia (ECN) had not provided it election information distributed to other newspapers. ECN Director Moses Ndjarakana countered that the ECN had no authority to include The Namibian in its distribution of election materials due to a cabinet resolution prohibiting the government and its agencies from advertising or buying copies of The Namibian. The ECN subsequently provided the election materials but required The Namibian to pay for them.

In an October address to a SWAPO rally, SWAPO Party Secretary General and Justice Minister Iivula-Ithana called The Namibian's editor Gwen Lister a “big snake in the country” and accused the newspaper of publishing false news to tarnish the country's image and of “desiring to bring war.” Iivula-Ithana also said that List-

er should “not forget that she is white,” and could be held responsible for the “evil deeds” of her parents and grandparents.

During the July arrival of Cuban President Raul Castro, independent media were positioned separately from state media, giving them an inferior angle for coverage. When a cameraman from One Africa Television moved to the state media position without permission, he was handled roughly and, according to some accounts, expelled from the event.

The government owned and operated the Namibian Broadcasting Corporation (NBC) Radio and Television, which were the most widely broadcast and influential media in the country. NBC's television and nine radio services broadcast in English and indigenous languages. There were 12 private radio stations and one private television network, One Africa TV. SWAPO owned 51 percent of the country's sole cable and satellite television provider.

On February 3, SWAPO Secretary for Information and Mobilization Jerry Ekandjo called for the dismissal of NBC Director General Bob Kandetu after a flag of the opposition Rally for Democracy and Progress (RDP) party flashed on the screen following President Pohamba's New Year's speech. The newspaper New Era reported that the NBC board cited incompetence and lack of performance as the reasons for the dismissal.

In March NBC modified the format of its popular radio call-in program, National Chat Show, to limit the topics for discussion; NBC Director General Matthew Gowaseb, who replaced Kandetu, attributed the move to inappropriate language and comments. The new format limited the topics to socio-economic issues, precluding political discussions. In November Gowaseb required the host of the morning radio program Keetute to address only themes provided by the NBC central office; the program had previously featured stories that sometimes criticized the government and ruling party. Gowaseb also threatened to cancel the evening talk show Openline; however, Openline and the talk show Ewi la mangeluka (roughly translated as “free to speak”) continued to operate and to feature political discussion.

During the year the government arrested foreign journalists. In July authorities arrested British investigative journalist Jim Wickens and South African filmmaker Bart Smithers for filming undercover the annual seal cull at Cape Cross. The two journalists, who had tourist rather than work visas, also were charged with trespassing in a marine protected area, failure to apply for permission to film at the Namibia Film Commission, and failure to apply for accreditation from the Ministry of Information. Seal hunters assaulted the journalists and confiscated their filming equipment. Wickens and Smithers claimed the attack took place in front of an official of the Ministry of Fisheries and Marine Resources. The journalists pled guilty to the charge of trespassing and were each fined 10,000 Namibian dollars (\$1,331), of which 5,000 Namibian dollars (\$665) was suspended for five years provided the two did not repeat the crime.

The trial of South African television journalist Bonita Nuttall, who was arrested and subsequently released in November 2008 for working on a tourist visa, was ongoing at year's end. In December 2008 the international NGO Reporters Without Borders called Nuttall's detention “an abuse of authority out of proportion to the offense.”

The Media Institute of Southern Africa issued six media freedom alerts for the country in its 2008 and 2009 annual reports, including three in which the government was cited for banning journalists from covering events; two for September passage of the Communications Bill; and one for the November 2008 arrest of journalist Bonita Nuttall.

In August the Editors' Forum of Namibia created the country's first media ombudsman and appointed to the position Clement Daniels, a well-respected human rights lawyer. Along with the media-operated Media Complaints Committee and a Media Appeals Board, the media ombudsman receives and adjudicates grievances and complaints by members of the public against the media.

Internet Freedom.—There were no government restrictions on access to the Internet; however, the Communications Bill passed in September provides that the intelligence services can monitor e-mails and Internet usage with authorization from any magistrate (see section 1.f.).

According to International Telecommunication Union statistics for 2008, approximately 5 percent of the country's inhabitants used the Internet.

Academic Freedom and Cultural Events.—Although there were no reports of government restrictions on academic freedom or cultural events, all government-owned institutions of higher learning, including the University of Namibia, Polytechnic of Namibia, and the Windhoek College of Education, continued to bar the holding of political events on their campuses.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The constitution and law provide for freedom of assembly, and the government generally respected this right; however, SWAPO supporters attempted to block opposition RDP gatherings on several occasions.

For example, according to press reports, in February 100 SWAPO supporters surrounded a shack in the Havana settlement of Windhoek for five hours after learning that an RDP branch meeting reportedly was taking place inside. Police fired warning shots to disperse the crowd; no arrests were made.

In May police used tear gas to disperse approximately 500 young members of the “Children of the Liberation Struggle” who had taken control of a bridge and were demanding to see the president to ask for jobs and educational opportunities. The approximately 10,000 registered members of the “Struggle Children,” who ranged in age from 19 to 40 years old, grew up in refugee camps and claimed to lack the education and skills required to obtain employment. Six of the demonstrators were hospitalized as a result of their injuries. On September 2, members of the group marched to parliament to present petitions. Police reportedly assaulted and arrested one marcher who was subsequently released.

In two separate incidents in October, groups of more than 200 SWAPO supporters prevented RDP members from campaigning in the towns of Outapi and Onesi in the Omusati region. Police escorted the RDP campaigners out of the traditional SWAPO strongholds.

In November, after an RDP rally in the town of Outapi, a group of approximately 250 SWAPO supporters lined both sides of the road and threw stones at a convoy of RDP vehicles as it departed town. RDP party members retaliated, and police used tear gas to control the crowd. Seven people were arrested, and their cases were ongoing at year’s end.

Freedom of Association.—The constitution and law provide for freedom of association, and the government generally respected this right in practice.

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

Societal Abuses and Discrimination.—There was a very small Jewish community and no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution and law provide for freedom of movement, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the UN Office of the High Commissioner for Refugees (UNHCR) and other humanitarian organizations in protecting and assisting refugees, returning refugees, asylum seekers, and other persons of concern.

The government continued to limit the freedom of travel of Cuban doctors working in the country under a Cuban bilateral assistance program. These doctors were generally not allowed to travel within or from the country without consent from the Cuban embassy, which held their passports.

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

Protection of Refugees.—The country is a party to the 1951 Convention relating to the Status of Refugees, the 1967 Protocol relating to the Status of Refugees, and the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. Its laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

According to the UNHCR, approximately 7,200 refugees and asylum seekers resided in Osire Settlement, formerly called the Osire Refugee Camp, while approximately 1,300 lived outside the settlement. Angolans represented 75 percent of the population, with another 20 percent from the Democratic Republic of Congo, Rwanda, and Burundi. The government continued to issue identification cards to all refugees to facilitate travel outside the settlement. Nevertheless, some refugees complained that they were still prevented from working outside the settlement. Free education through grade 10 was available to all refugee children, and the government financially sponsored further secondary education for students at schools outside the settlement. The government provided antiretroviral therapy to refugees infected with HIV/AIDS.

On July 8, 41 Congolese refugees voluntarily departed Osire Settlement, where many had been living for the past decade, and subsequently sought asylum in Botswana. The group, which included 23 children, claimed that the government issued "death threats" against them after they had complained about living conditions. UNHCR determined that refugee claims of poor living conditions and government threats were unfounded, and the group decided to stay at the Mamuno border crossing between Namibia and Botswana rather than return to the camp. After the Namibian government stated that the refugees were not welcome to return to Osire, the government of Botswana agreed to take charge of the group until a decision could be reached on the group's request for asylum. At year's end the situation remained unresolved.

The government continued to maintain strict control over civilian access to the Osire Settlement; however, the ICRC, UNHCR, and the UNHCR's NGO partners had regular and unrestricted access to the camp.

The government also provided temporary protection to certain individuals who may not qualify as refugees under the 1951 convention or the 1967 protocol.

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

The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic and free elections held on the basis of universal suffrage. Opposition members lodged numerous claims of harassment against SWAPO supporters.

Elections and Political Participation.—In presidential and parliamentary elections held in November, SWAPO candidate Hifikepunye Pohamba was re-elected president with 76 percent of the vote, and SWAPO candidates won 54 of 72 elected National Assembly seats. International and domestic observers characterized both elections as free and reflecting the will of the electorate despite some irregularities. Observers criticized the inefficient vote tabulation system and the unequal access to media coverage and campaign financing. In the National Assembly, eight opposition parties won a total of 18 seats.

Individuals and political parties could declare their candidacy freely and stand for election in accordance with the law. The government did not officially restrict the right of political opponents to organize, seek votes, or publicize their views, but SWAPO supporters sometimes disrupted rallies and campaigns of opposition parties, particularly the RDP. The majority Owambo tribe dominated the political system. Membership in the dominant SWAPO party was widely perceived to confer advantages, particularly in securing public sector jobs and government tenders.

In August the president signed into law the Electoral Amendment Act, which permits citizens living abroad to vote, empowers the Electoral Commission of Namibia to accredit election observers, and provides that ballots be counted and results announced at polling stations immediately after polls close. The act also provides that new political parties advertise in the Government Gazette and that the names of the 500 supporters and founding members required for the registration of the party also appear in the Gazette.

In August the police inspector general asked all political parties to stop conducting door-to-door campaigning to avoid political violence and preserve citizen privacy. Most political parties objected, and police did not enforce the request.

On February 8, The Namibian newspaper reported that a SWAPO supporter armed with a pistol allegedly attacked opposition RDP member Sam Hamunyela, who filed a criminal charge against his attacker. The case was ongoing at year's end.

The July 2008 case in which a mob of ruling SWAPO party supporters attacked two RDP supporters remained under investigation at year's end.

Two days prior to the by-election for Tobias Hainyeko constituency in 2008, unknown assailants threw tear gas at the house of RDP candidate Erasmus Hendjala. A police investigation into the incident failed to identify the perpetrators, and the case was dropped during the year.

Investigations into the incident in 2008 in which opposition party leaders were charged with advocating a boycott of a parliamentary by-election were still pending at year's end.

Women held 24 seats in the 78-seat National Assembly, which included six appointed seats and 72 elected ones. There were six female ministers, including the deputy prime minister, and five female deputy ministers among the 45 ministerial and deputy ministerial incumbents.

Historic economic and educational disadvantages limited the participation of the indigenous San ethnic group in politics; however, a SWAPO member of the San community represented the community in the National Assembly. Virtually all of the

country's other ethnic minorities were represented in parliament and in senior positions in the cabinet. Members of smaller ethnic groups held the offices of deputy prime minister, speaker of the National Assembly, and chairperson of the National Council.

Section 4. Official Corruption and Government Transparency

Although the law prohibits corruption and the government took steps to address the problem, officials continued to engage in corrupt practices. The World Bank's most recent Worldwide Governance Indicators reflected that corruption was a problem.

In May the government implemented the Prevention of Organized Crime Act, which provides for monitoring and prosecuting money laundering and combating financial crimes, such as tax evasion, false accounting, and corruption. Also in May the ACC organized the "Great Walk against Corruption" to raise awareness of the problem. Several senior government officials joined the march.

During the year the ACC conducted several investigations into corruption, and, unlike in previous years, the ACC was not widely criticized for pursuing only "small fish." In April the National Assembly criticized the ACC for publicizing cases under investigation.

In March the ACC launched an investigation into the Bethanie Village Council for alleged mismanagement of funds, tender irregularities, and abuse of power.

In June the ACC arrested Hardap Regional Governor Katrina Hansa-Himarwa on two counts of corruption. She was accused of failing to account for 2,000 Namibian dollars (\$266) from an entertainment budget and for misappropriating 3,290 Namibian dollars (\$438) to pay a relative to make curtains for her residence. In September Hansa-Himarwa was acquitted of all charges.

In July the ACC arrested Public Service Commissioner Teckla Lameck, businessman Kongo Mokaxwa, and Chinese national Yang Fan on charges of fraud, bribery, and corruption. Assets belonging to the three were frozen following accusations that they received kickbacks of 42 million Namibian dollars (\$5.6 million) in connection with a government contract with a Chinese company for scanning equipment for the Directorate of Customs and Excise. Lameck and Mokaxwa were granted bail of 50,000 Namibian dollars (\$6,650) each, while Yang Fan's bail was set at 250,000 Namibian dollars (\$33,300). The court case was ongoing at year's end.

Also in July, President Pohamba suspended NDF chief Lieutenant General Martin Shalli amid unspecified claims of corruption. The claims related to alleged kickbacks paid by a Chinese company which supplied the NDF with equipment.

In November the ACC began investigating Immanuel Mulunga, the country's petroleum commissioner, regarding his role in a shareholding dispute over an exclusive exploration license for coal methane gas which involved several prominent individuals. The investigation was ongoing at year's end.

Investigations into corruption cases from 2007 and 2008 continued; however, charges were withdrawn in some cases. On February 27, a magistrate dismissed the 2008 charges against Vincent Hailulu, the chief executive officer of the National Housing Enterprise, who was arrested for "enriching himself and for not following proper hiring procedures." In addition, the magistrate ordered that the bail of 30,000 Namibian dollars (\$4,000) that Hailulu had paid be refunded. The ruling confirmed a February 6 court ruling that Hailulu's arrest had been unlawful. Nevertheless, ACC Director Paulus Noa maintained that investigation of corruption in the National Housing Enterprise would continue, and it was unclear whether Hailulu would be charged again.

Public officials were subject to financial disclosure laws. However, civil society organizations charged that financial disclosure laws did not preclude government officials from engaging in private business that conflicted with their government duties. Government institutions, including the ACC, the Office of the Ombudsman, and the Office of the Auditor General, were responsible for combating public corruption.

No laws provide for public access to government information, and media outlets generally found the government unwilling to provide information, including salary scales, for public officials.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases; however, government officials continued to disapprove publicly of NGO criticism of the ruling party and government policies.

The NSHR and the LAC, both independent organizations, were the primary human rights NGOs in the country, and the police regularly met with both. The

LAC often assisted police with human rights training, while the NSHR reported incidents of police brutality and abuse of power.

Prominent SWAPO leaders continued to criticize NSHR Director Phil ya Nangoloh, accusing him of “falsehoods” and of being misguided. In August ya Nangoloh sued the SWAPO newspaper *Namibia Today* for 250,000 Namibian dollars (\$34,070) for calling him “a noted twister of facts and pathological liar.” The case was pending assignment of a court date at year’s end.

The government generally cooperated with international human rights organizations, and the ICRC and other international bodies made visits during the year.

There was an autonomous ombudsman, with whom the government cooperated; he was considered effective in addressing some corruption and human rights problems.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law prohibit discrimination based on race, creed, gender, language, disability, social status, or religion, and specifically prohibit “the practice and ideology of apartheid”; however, the government did not effectively enforce these prohibitions.

Women.—The law defines rape in broad terms and allows for the prosecution of spousal rape. Numerous cases of rape were prosecuted during the year, and the government generally enforced rape penalties, which provide for sentences of between five and 45 years’ imprisonment for convicted rapists. According to police statistics for 2008, 11,611 cases of gender-based violence were reported, 940 of which involved rape. A number of factors continued to hamper rape prosecutions, including lack of police transport, poor communication between police stations, lack of expertise in dealing with child rape complainants, and the withdrawal of cases by rape complainants after they filed charges.

Domestic violence is against the law; however, domestic violence, including beatings and rape, was widespread. Information on enforcement was unavailable.

There were 15 women’s and children’s shelters staffed with police officers trained to assist victims of sexual assault. During the year the People’s Education, Assistance, and Counseling for Empowerment Center and other NGOs continued to provide training to these units. In some magistrates’ courts, there were special courtrooms to protect vulnerable witnesses from open testimony; the courtrooms featured a cubicle made of one-way glass and child-friendly waiting rooms. On July 31, the government launched the “Zero Tolerance Campaign against Gender Based Violence, Including Human Trafficking,” to raise public awareness and highlight ways the public could help address the problem.

The law does not prohibit prostitution, which was widespread; however, generating an income from prostitution is illegal.

The law prohibits sexual harassment. Statistics were unavailable, but the problem was believed to be widespread. No sexual harassment cases were filed during the year.

There are no government restrictions on family planning. The government and NGOs provided for equitable access to contraception to all citizens, although those who lived in urban areas had better access to skilled attendance during childbirth and postpartum care than those who lived in rural areas. The government and NGOs made a strong effort to educate men and women equally in the diagnosis and treatment of sexually transmitted infections, including HIV.

The law prohibits discrimination, including employment discrimination; however, men dominated positions in upper management in both the private and the public sectors. The Ministry of Labor and Social Welfare and the Employment Equity Commission, which report to the minister of labor, were responsible for problems involving discrimination in employment; however, neither was effective due to the backlog of cases.

The law prohibits discriminatory practices against women married under civil law, but women who married under customary law continued to face legal and cultural discrimination. Traditional practices that permitted family members to confiscate the property of deceased men from their widows and children continued.

The Ministry of Gender Equality and Child Welfare was responsible for advocating for women’s rights. The Ministry of Justice’s Law Reform and Development Commission advocated for women’s rights in legislation.

Children.—The constitution provides for citizenship by birth within the country’s territory (*jus soli*) or from one’s parents (*jus sanguinis*). According to a 2006 survey conducted by the government, approximately 40 percent of children—many of whom were born at home in rural areas—did not possess birth certificates, which are necessary for social grants. Although prohibited by law, teachers in regions of the country bordering Angola, Zambia, Zimbabwe, and Botswana reportedly often

refused to teach children who could not prove their citizenship. Mothers who delayed registration often faced a difficult process and long delays, particularly if parents had died and death certificates or other needed documents had never been obtained.

During the year the Ministry of Home Affairs, in partnership with the UN Children's Fund, opened offices at hospitals throughout the country to provide birth certificates for newborns. Officials from the Ministry of Home Affairs and Immigration also deployed mobile units to towns and villages countrywide to facilitate issuance of birth certificates and identity documents. The project primarily focused on orphans and vulnerable children; however, the mobile units also targeted San children, and NGOs reported a decrease in San complaints of being unable to obtain proper identification documents.

Although the constitution provides children until the age of 16 with the right to compulsory, free, and universal primary and junior secondary education (grades one through 10), the numerous fees—including fees for uniforms, books, boarding costs, and school improvement—placed a heavy burden on poor families and precluded some children from attending school. In general, more girls than boys were enrolled in secondary schools. Many San children and children from destitute families did not attend school.

Child abuse was a serious problem, and authorities vigorously prosecuted crimes against children, particularly rape and incest. According to police records and media reports, at least 200 children were murdered, raped, or assaulted during the year.

The law protects children less than 18 years of age by criminalizing the actions of the client or pimp in cases of sexual exploitation, child pornography, and child prostitution. The minimum legal age for consensual sex is 16, and the penalty for statutory rape is a minimum of five years in prison. No law specifically prohibits child pornography. The government continued to provide training for police officials to improve the handling of child sex abuse cases. Centers for abused women and children worked actively to reduce the trauma suffered by abused children.

Child prostitution occurred generally without third-party involvement and primarily as a means of survival among HIV/AIDS orphans and other vulnerable children. The growing number of HIV/AIDS orphans increased the vulnerability of children to sexual abuse and exploitation.

During the year the government continued to take several steps to provide medical care and other assistance to HIV/AIDS orphans and vulnerable children. For example, the government eliminated all school-related fees and provided social grants for such children during the year.

Trafficking in Persons.—The Prevention of Organized Crime Act, which was implemented during the year, specifically criminalizes trafficking in persons, slavery, kidnapping, and forced labor, including forced prostitution, child labor, and alien smuggling. However, there were reports that persons were trafficked to, from, and within the country.

In June an assessment by the Ministry of Gender Equality and Child Welfare identified eight cases of confirmed trafficking and numerous reports of suspected trafficking. In one instance, a mother sold her teenage daughter into prostitution in Walvis Bay; an investigation was pending at year's end. In another, in Katima Mulilo, police investigated a Zambian man whom Namibian farmers paid to recruit young Zambian boys to work on their farms. The recruiter fled to Zambia before police could arrest him. The police returned the young boys to Zambia and issued a warning to the farmers.

During the year there were reports that Zambian and Angolan children were trafficked to Namibia for domestic servitude, agricultural labor, and livestock herding. There were also reports of trafficking for sexual exploitation of women from Zimbabwe. The government's assessment conducted during the year also highlighted internal trafficking of girls from rural areas to urban centers to work as babysitters. Girls were commonly denied education, sometimes sexually exploited, and their income forwarded directly to their mothers.

The Prevention of Organized Crime Act provides for fines of up to one million Namibian dollars (\$133,000) or jail terms of up to 50 years for persons who participate in or aid and abet trafficking in persons.

The police's Women and Child Protection Unit is responsible for monitoring and investigating possible cases of trafficking. The Ministry of Gender Equality and Child Welfare coordinated the government's efforts to combat trafficking.

The State Department's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—While discrimination on the basis of disability is not addressed in the constitution, the law prohibits discrimination against persons with

physical and mental disabilities in employment. Enforcement in this area was ineffective, and societal discrimination persisted.

The government does not require special access to public buildings, and some ministries remained inaccessible. However, during the year the government continued to require that all new government buildings include ramps. In addition, some street corners in the capital were outfitted with special signal crossings for the visually impaired. The Office of the Prime Minister's Disability Advisory Unit was responsible for assisting persons with disabilities.

Unlike in the previous year, there were no reports of discrimination against persons with disabilities by state-owned enterprises.

National/Racial/Ethnic Minorities.—Despite constitutional prohibitions, societal, racial, and ethnic discrimination persisted. Some citizens continued to accuse the government of providing more development assistance and professional opportunities to the majority Ovambo ethnic group. The media occasionally carried reports of farm workers, mostly black, suffering discrimination in remote areas by mostly white farm owners.

Indigenous People.—The San, the country's earliest known inhabitants, historically have been exploited by other ethnic groups. By law all indigenous groups participate equally in decisions affecting their lands, cultures, traditions, and allocations of natural resources; however, the San and other indigenous citizens have been unable to exercise these rights fully as a result of minimal access to education, limited economic opportunities, and their relative isolation. The government took measures to end societal discrimination against the San, including seeking their advice about proposed legislation on communal lands and increasing their access to education. Indigenous lands were effectively demarcated, but poorly managed. During the year the government continued promoting special projects for the advancement of the San community. For example, the "Back to School and Stay at School for San Children Project" has benefited more than 100 San children by paying for their studies, upgrading the schools and hostels in the San community, and locating mobile schools closer to San villages.

The government has authority to confer recognition or withhold it from traditional leaders even in opposition to local preference. This authority was controversial because of local leaders' influence on local issues, including local police powers. There were continued allegations that the government withheld recognition from traditional leaders for political reasons.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The law does not prohibit homosexual conduct; however, sodomy between males is illegal, and the practice of homosexual activity was discouraged, according to The Rainbow Project, which represents lesbians, gays, bisexuals, and transgender persons.

Other Societal Violence or Discrimination.—Societal discrimination against and stigmatization of persons living with HIV/AIDS remained a problem. The government supported the work of the Namibia Business Coalition against HIV/AIDS to eliminate discrimination in the work place.

In June the LAC filed a lawsuit against the government on behalf of 20 HIV-positive women who claimed they were sterilized against their will after being told the procedure was a routine treatment for HIV/AIDS. The LAC argued that the alleged practice was discriminatory against persons living with HIV and interfered with their right to procreate. The government denied it had a policy of forced sterilization, and the court case was ongoing at year's end.

In July 22 persons reached an out-of-court settlement with their former employer who allegedly hired a medical doctor to conduct HIV tests on them. The employees, who were told the tests were for "general hygiene," claimed they were unaware of the nature of these tests and that no pre- or post-test counseling was provided. Test results, including the names of all employees who had tested HIV positive, were allegedly displayed on a notice board at the place of business.

Section 7. Worker Rights

a. The Right of Association.—The constitution provides for the right to form and join trade unions without previous authorization or excessive requirements, and the government generally enforced this law; however, workers in essential services were prohibited from joining unions. Approximately 25 percent of employees in the formal sector belonged to some form of union or employers organization, while almost 4 percent of unemployed persons belonged to such an organization, according to the 2004 Labor Force Survey.

The labor code provides for the protection of all workers, but farm workers and domestic servants working on rural and remote farms often did not know their

rights, and in attempting to organize these workers unions experienced obstacles, such as being prohibited from entering commercial farms. As a result, some farm workers reportedly suffered abuse by employers such as poor access to health care. During the year the government continued efforts to train labor inspectors and educate workers on their rights.

Except for workers in public health, safety, and other essential services, workers have the right to strike once conciliation procedures are exhausted and a 48-hour notice has been given to the employer and labor commissioner. Strike action can be used only in disputes involving specific worker interests, such as pay raises. Disputes over worker rights, including dismissals, must first be submitted to conciliation and are then referred to a labor court for arbitration if conciliation is unsuccessful. The law protects workers engaged in legal strikes from unfair dismissal. The law also specifically protects both union organizers and striking workers from retaliation by employers; however, the scarcity of judges and lack of expertise in labor law caused lengthy and unnecessary delays in such cases.

The parties to a 2008 case in which a private security firm at the Skorpion Zinc mine used rubber bullets to disperse 50 workers reached an undisclosed settlement during the year.

b. The Right to Organize and Bargain Collectively.—The law provides employees with the right to bargain individually or collectively and to recognize the exclusive collective bargaining power of the union when a majority of the workers are members of that union; workers exercised these rights in practice. Collective bargaining was not practiced widely outside the mining, construction, agriculture, and public service sectors. Almost all collective bargaining was at the workplace and company level. The Ministry of Labor continued to cite lack of information and basic negotiation skills as factors hampering workers' ability to bargain with employers successfully. The majority of trade unions were officially affiliated with SWAPO, which many argued limited their independence in promoting worker rights.

The law provides for arbitration and conciliation to resolve labor disputes more quickly. On December 14, the Supreme Court declared unconstitutional a provision in the 2007 Labor Act that prohibited employers from hiring third-party temporary or contract workers ("scabs").

The law prohibits antiunion discrimination, and there were no instances of companies failing to reinstate workers who were fired for legal union activities.

There are export processing zones (EPZs) at the Walvis Bay and Oshikango industrial parks and a number of single-factory EPZs outside of these parks. The law applies to EPZs, and unions have been active in the EPZs since their establishment.

c. Prohibition of Forced or Compulsory Labor.—Although the law prohibits forced or compulsory labor, including by children, there continued to be media reports that farm workers, including some children on communal farms, and domestic workers often received inadequate compensation for their labor and were subject to strict control by employers. Given the Ministry of Labor's resource constraints in vehicles, budget, and personnel, as well as difficulty in gaining access to some large communal and family-owned commercial farms, labor inspectors sometimes found it difficult to investigate possible labor code violations.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law provides that persons found guilty of employing children can face a maximum fine of 20,000 Namibian dollars (\$2,660) and/or up to four years' imprisonment; however, child labor continued to be a problem. The minimum age for employment is 14, with higher age requirements for night work and in certain sectors such as mining and construction. The minimum age was inconsistent with the age for completing education requirements. Children worked in construction, unloaded trucks, pushed trolleys, begged on the streets, and worked in family businesses. Children below the age of 14 often worked on family-owned commercial farms and in the informal sector, and some also worked in communal areas or assisted parents working in the charcoal industry.

Sectors in which children were involved in the worst forms of child labor included agriculture and livestock, domestic service, charcoal production, and the commercial sex industry sectors. In August the Ministry of Labor carried out investigations around the country of suspected incidents of child labor in the agricultural sector. The investigations exposed more than 111 child labor cases, and the guilty employers were issued compliance orders. Those employers who failed to comply within 30 days were expected to face criminal charges and prosecution.

During the year the Ministry of Labor established an interagency Project Advisory Committee on Child Labor (PACC) to oversee implementation of the 2008 Action Plan for the Elimination of Child Labor in Namibia. PACC facilitated the review of national and international policies and legislation, developed a list of hazardous

child labor activities, conducted an in-depth study of child labor in the agriculture sector, and analyzed the impact of HIV/AIDS on child labor. PACC also identified implementing agencies that could assist in preventing and removing children from child labor situations. In November PACC trained labor inspectors, social workers, and police officers to enforce child labor law better.

The Ministry of Gender Equality and Child Welfare continued to conduct several programs aimed at encouraging parents and guardians to allow children to attend school.

The government does not have a separate authority to implement and enforce child labor laws, but generally used regular labor inspections as well as other monitoring mechanisms for orphans and vulnerable children. Enforcement was limited. There were 36 labor inspectors, and all were trained in identifying the worst forms of child labor; however, no inspector focused exclusively on children's services.

The government has introduced several programs aimed at supporting children to stay in school and away from the labor market. The Ministry of Gender Equality and Child Welfare and the Ministry of Health and Social Services coordinated welfare programs for orphans, including those affected by HIV/AIDS by providing grants and scholarships to keep them in school. In partnership with the International Labor Organization, the government also participated in a four-year program to withdraw and prevent children from exploitive labor in agriculture and adult-coerced criminal activity. The government continued to print and distribute a comprehensive guide on the newly implemented labor law, which included a section on child labor. The government also continued to work with NGOs such as Project Hope to assist victims of child labor.

e. Acceptable Conditions of Work.—There was no statutory minimum wage law, but the mining, construction, security, and agricultural sectors set basic levels of pay through collective bargaining. Average wages for unskilled workers did not provide a decent standard of living for a worker and family, especially since the average wage earner supported an extended family. Wage levels for the less educated majority remained very low.

The standard legal workweek is 45 hours with at least one 36-hour rest period per week. An employer may require no more than 10 hours per week of overtime, and the law requires premium pay for overtime work. The law mandates 24 workdays of annual leave per year, at least 36 workdays of sick leave over a three-year period, and three months of maternity leave paid by the employer and the Social Security Commission. However, the Ministry of Labor did not always enforce these provisions.

Concerns continued that Chinese firms failed to adhere to the labor code, in part by allegedly hiring and firing workers at will, ignoring occupational health and safety measures, failing to pay established minimum wages and benefits in certain industries, and failing to respect work-hour regulations for public holidays and Sundays. During the year there were reports that some mining companies denied workers sanitary and safe working and living conditions.

The Ministry of Labor and Social Welfare mandates occupational health and safety standards, and the Labor Act empowers the president to enforce these standards through inspections and criminal penalties; however, the government did not always enforce labor laws effectively. The Ministry of Labor lacked an adequate number of trained inspectors to monitor adherence, especially in small family-owned operations. The law requires employers to ensure the health, safety, and welfare of their employees. It provides employees with the right to remove themselves from dangerous work situations; however, some workers could not exercise this right in practice.

NIGER

Niger is a republic that restored its multiparty system in 1999 following coups in 1996 and 1999; it has a population estimated at 15.4 million. In 2004 voters elected Mamadou Tandja to a second five-year presidential term in an election that international observers deemed generally free and fair. The ruling coalition of the National Movement for the Development of Society (MNSD) and the Democratic and Social Convention (CDS), joined by four other parties, won a majority of national assembly seats. President Tandja's second—and final, due to constitutional limits—five-year term was due to expire on December 22, 2009; however, he organized a controversial referendum that established the Sixth Republic and allowed him to remain in office for three additional years and that eliminated the term-limits provision, although this provision was specifically prohibited from revision in the 1999

constitution. To consolidate the power needed to approve these changes, President Tandja dissolved the National Assembly and the Constitutional Court, modified the electoral code, restricted basic freedoms, curtailed press freedom, and granted himself emergency powers to rule by decree and executive order. In 2007 the Tuareg rebel group Nigerien Movement for Justice (MNJ) launched a series of attacks against military and strategic installations in the north. The frequency and intensity of attacks diminished during the year, but the government continued to extend the state of alert declared in 2007 in 90-day increments until November 26, when the president lifted the state of alert. While civilian authorities generally maintained effective control of the security forces, there were instances in which elements of the security forces acted independently of government authority.

Government respect for human rights did not improve from the previous year. Human rights abuses included the undemocratic manipulation of the constitution and the electoral process; extrajudicial killings and use of excessive force by security forces; poor jail and prison conditions; arbitrary arrest and detention; prolonged pre-trial detention; executive interference in the judiciary; excessive use of force and other abuses in internal conflict; restrictions on press freedom; forcible dispersal of demonstrators; restrictions on freedom of movement; official corruption; official impunity; societal discrimination and violence against women; female genital mutilation (FGM); trafficking in persons; the practice of slavery by some groups; and child labor.

On April 4-6, the government and Tuareg rebels began peace talks in Tripoli under Libyan mediation, which resulted in direct meetings in Niger and led at least 1,000 rebels to surrender their arms during the second week of October. On November 26, the government lifted the state of alert it had imposed in 2007.

Claiming he was responding to calls by allies and ordinary citizens to extend his term and complete some of the projects he initiated, President Tandja organized a controversial referendum and legislative elections after he dissolved the National Assembly, assumed emergency powers, dissolved the Constitutional Court, suspended related constitutional provisions, and amended the electoral code. The opposition, trade unions, and civil society organizations boycotted both consultations, arguing that the president's move was unconstitutional. International, regional, and bilateral bodies also rejected it. This situation prompted a series of demonstrations involving arbitrary detentions, beatings, and mistreatment of protesters, and restrictions on freedoms of assembly and of the press (see sections 2.a. and 2.b.).

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, security forces were responsible for the deaths of civilians in connection with the conflict in the north (see section 1.g.).

Disputes between herders and farmers over land rights and grazing areas continued and resulted in several deaths.

For example, on March 6, unidentified gunmen killed at least 10 persons and burned hundreds of hectares of pasture in attacks on two herders' camps. State radio reported that an area of pasture estimated at 800 hectares (30 square miles) was burned in the attacks, close to the town of Mangaize (Ouallam) in Tillabery Region, 80 miles north of Niamey near the border with Mali. Tillabery regional authorities who visited the site stated that they would take every measure to find and arrest the killers. The case was settled during the reconciliation forum in April.

On March 20, dozens of sedentary villagers attacked a Fulani herder camp in Aboyok (Filingue), Tillabery Region, killing 18 persons, including 12 women, three children, and three elderly persons. The assailants also abducted and beat two young persons, one of whom reportedly died. Seventeen others were injured in the incident. Villagers also burned the camp's school, several huts, and large areas of grazing land, and stole cash and livestock. Authorities arrested 13 suspects. The case was settled during the reconciliation forum in April.

On August 23, a group of eight armed Fulani stopped a passenger vehicle traveling from Balevara to Bani Bangou, near the village of Dangara, Tillabery Region. They stripped the passengers of their possessions, ordered everyone off the bus, and separated passengers into Fulani and Djerma groups. The attackers then opened fire on the Djerma group, immediately killing seven. Three others later died of injuries sustained during this attack.

On August 23, sedentary villagers carried out organized attacks on an unnamed Fulani herder community in Tillabery Region. According to local human rights groups, local authorities, and the Fulani community, these attacks resulted in 13

deaths (including four women, four children, and two elderly individuals); five victims suffered serious injuries. Authorities continue to investigate these killings.

On September 1, one person was killed and another injured in a skirmish between Malian herders and Nigerien villagers in Wanzarbe, Tillabery Region, near the Malian border.

On November 17, between Chinagoder and Banibangou in Tillabery Region, unidentified armed individuals killed a young man riding a motorcycle. On November 18, unidentified individuals attacked a nomad camp in the same area, killing three persons. Two tribal leaders were placed under custody as investigations continued.

The September 2008 community conflict that resulted in the death of 12 villagers in Chiwilli was settled via a forgiveness and reconciliation forum. In April the prime minister chaired a forum for the reconciliation of populations in northern Tillabery Region. Those in attendance urged the various communities to “forgive one another.”

There were no further developments regarding either the 2007 dispute in Zinder Region that resulted in four deaths or the 2007 clash that left seven dead and seven injured in Tillabery Region.

b. Disappearance.—There were no reports of politically motivated disappearances; however, in December 2008 the UN secretary general’s special representative for Niger, former Canadian ambassador Robert Fowler, and his special assistant Louis Guay and their driver disappeared. Kidnappers reported to be members of Al-Qaeda in the Maghreb freed the driver in Mali. He returned to Niger on March 26, after more than 100 days in captivity. The two UN officials were released on April 22.

On January 22, unknown assailants kidnapped four European tourists in Niger close to the border with Mali. On April 22, captors released two of the hostages (one Swiss woman and one German woman) in Mali. They killed a third hostage (a British man) in May and released the last hostage (a Swiss man) on July 12.

On December 28, unidentified armed individuals attacked a convoy of Saudi citizens en route to the Malian border, approximately 21 miles from Tillabery. The assailants killed three persons on the spot and injured four. One of the injured subsequently died at a Niamey hospital. The criminals tied and left the convoy’s guides (two Malian nationals), who later managed to set themselves free. Authorities detained several individuals and investigations continued at year’s end.

On December 30-31, an armed group, reportedly drug traffickers, clashed with the national army at Telemses, northwest of Tahoua near the Malian border. Resulting skirmishes took place over several days and left seven government soldiers, nine traffickers, and one civilian dead. The army reported seizing one vehicle and several weapons and taking an undetermined number of prisoners.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution and law prohibit such practices; however, there were reports that security forces and the MNJ beat and tortured civilians in connection with the conflict in the north, where fighting between government and rebel forces also resulted in civilian injuries (see section 1.g.).

Police reportedly mistreated detained protesters, including politicians and civil society activists, and forcibly dispersed demonstrations, which resulted in injuries.

Disputes between farmers and herders resulted in deaths and injuries.

Prison and Detention Center Conditions.—There were 38 penitentiaries with an estimated total of 7,000 detainees countywide. Prison conditions were poor and life threatening. Prisons were underfunded, understaffed, and overcrowded. For example, Niamey’s civil prison, a facility built for 350, held 861 inmates, including 654 awaiting trial and 207 sentenced; there were 35 women and 26 juveniles among the detainees. Family visits were allowed, and prisoners could receive supplemental food, medicine, and other necessities from their families; however, nutrition, sanitation, and health conditions were poor, and deaths occurred from AIDS, tuberculosis, and malaria.

Corruption among prison staff continued. Officials demanded bribes to let prisoners leave prison for the day and serve their sentences in the evenings or serve their sentences in the national hospital in Niamey.

Pretrial detainees were held with convicted prisoners.

Human rights observers, including the International Committee of the Red Cross (ICRC), the governmental National Human Rights and Fundamental Liberties Commission, human rights groups, and media representatives were granted unrestricted access to prisons and detention centers and conducted visits during the year. ICRC visits were conducted in accordance with its standard modalities.

On March 2, the Ministry of Justice and the ICRC organized a training session for the penitentiary administration, aimed at improving detention conditions.

On October 5-15, the National School of Public Health (ENSP) conducted a capacity-building course intended to train and upgrade the skills of 29 members of the National Intervention and Security Forces (FNIS) who provide health care in various penitentiaries. The FNIS and the penitentiary administration funded the training with support from a foreign embassy.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention, and the law prohibits detention without charge in excess of 48 hours; however, police violated these provisions.

The state of alert in the north allowed security forces to arrest and detain individuals without charge indefinitely (see section 1.g.).

Role of the Police and Security Apparatus.—The armed forces, under the Defense Ministry, are responsible for internal and external security. The gendarmerie, also under the Defense Ministry, has primary responsibility for rural security. The National Intervention and Security Forces (FNIS), under the Interior Ministry, are responsible for domestic security and the protection of high-level officials and government buildings. The national police, also under the Interior Ministry, are charged with urban law enforcement.

The police were ineffective, largely due to a lack of basic supplies such as vehicle fuel, radios, uniforms, handcuffs, batons, and badges. Patrols were sporadic, and emergency response time in Niamey could take 45 minutes. Police training was minimal, and only specialized police units had basic weapons-handling skills. Citizens complained that security forces did not adequately police border regions and remote rural areas. Corruption remained an ongoing problem. The gendarmerie is responsible for investigation of police abuses; however, impunity was a widespread problem.

Arrest Procedures and Treatment While in Detention.—The constitution and law require a warrant for an arrest, and this generally was observed in practice in areas outside the north. Judges and prosecutors weigh evidence and issue warrants accordingly. Persons are brought before an independent judiciary. However, there were reports that several persons were detained arbitrarily under the state of alert. The law allows individuals to be detained initially for up to 48 hours without charge and allows an additional 48-hour detention period if police need more time to gather evidence. Detainees have a right to prompt judicial determination, and this generally occurred in practice. Security forces usually informed detainees of the charges against them promptly; however, detainees involved with sensitive cases were sometimes held longer than legally permitted. There is a functioning bail system for crimes carrying a penalty of fewer than 10 years' imprisonment. Those arrested must be notified of their right to a lawyer within 24 hours. Indigents are usually provided a lawyer by the government. Widespread ignorance of the law and lack of financial means prevented many from fully exercising their right to an attorney and the bail system.

Security forces arrested and detained journalists and political and civil society activists during the year.

On July 2, police released from custody Marou Amadou, leader of the United Front for the Safeguarding of Democratic Achievements (FUSAD, a civil society umbrella group made up of 22 labor unions and other organizations) and member of the Independent National Electoral Commission (CENI), after detaining him for several days on charges of provoking and demoralizing the security and defense forces. On August 10, the judicial police again arrested Amadou on charges of "undermining state security" following a FUSAD statement rejecting the August 4 referendum results and denouncing President Tandja's regime. Amadou was released on August 11, but security forces arrested him again and transferred him to the judicial police for questioning on new charges of "operating a nondeclared organization." On August 13, Amadou appeared before the investigating judge who determined that he should remain in custody pending further examination of the case. He was transferred to a maximum security prison where he remained in detention after various failed attempts to obtain provisional release. He was released on bail on September 15. On September 17, Amadou moved from his house to an undisclosed location following rumors that the police were trying to arrest him again after he criticized the regime in a press conference on September 16. He reappeared on September 21, and was able to travel overseas on October 4. He returned on October 29.

On July 18, security forces detained Niger Party for Democracy and Socialism (PNDS) member Alassane Karfi for questioning following his July 17 remarks on Dounia Television about opposing the August 4 referendum. On July 19, security forces transferred Karfi to Koutoukale maximum security prison based on orders

from the public prosecutor. The Tribunal of Niamey granted him provisional release on October 13.

On July 21, security forces detained former foreign minister, National Assembly deputy, and deputy chairperson of the PNDS Bazoum Mohamed and questioned him regarding his participation in opposition efforts to organize a boycott of the August referendum.

Between September 3 and 5, Niamey police summoned, questioned, and detained 35 former National Assembly deputies, mostly from opposition parties; members of the administrative staff; and vendors. Reportedly, the arrests related to "illegally received amounts." These involved deputies accepting benefits that they had approved for themselves by motion rather than through enactment of a law. The Constitutional Court found against this maneuver, whereupon the deputies passed a law to the same effect. The government took issue with their retaining the excess benefits from the period before the passage of the law. The "illegally received amounts" involved 124 National Assembly members during the previous three legislatures. On September 7 and 8, the 35 arrested former parliamentarians appeared in court. Three former lawmakers, two staff members, and two vendors were jailed; 28 deputies were arraigned and granted provisional release.

Police occasionally conducted sweeps to detain suspected criminals.

There were serious backlogs in the judicial system. The law provides for maximum pretrial confinement of 30 months for serious crimes and 12 months for minor offenses, with special extensions in certain sensitive cases; however, some persons waited as long as six years to be tried. At year's end, 76 percent of the prisoners in Niamey's civil prison were awaiting trial. Trial delays occurred due to factors including lengthy legal procedures, inadequate resources, staff shortages, and corruption.

Amnesty.—On October 23, President Tandja granted amnesty to Tuareg rebels who had given up arms, to security forces, and to all those involved in the conflict in the northern region.

e. Denial of Fair Public Trial.—Although the constitution and law provide for an independent judiciary, the executive branch sometimes interfered with the judicial process. Corruption and inefficiency were problems. Judges sometimes feared reassignment to lower positions or to remote areas of the country if they rendered a decision unfavorable to the government. In civil matters there were reports that family and business ties influenced lower court decisions. In some instances judges granted provisional release pending trial to high-profile defendants. These defendants were seldom called back for trial, had complete freedom of movement, and could leave the country.

The Court of Appeals reviews questions of fact and law, while the Supreme Court reviews application of the law and constitutional questions. The High Court of Justice (HCJ) deals with cases involving senior government officials. The justice system also includes civil criminal courts, customary courts, traditional mediation, and a military court. The military court provides the same rights as civil criminal courts; however, customary courts do not. The military court cannot try civilians.

Under customary courts and traditional mediation, individuals do not have the same legal protections as those using the formal court systems. Traditional chiefs can act as mediators and counselors. They have authority to arbitrate in many customary law matters, including marriage, inheritance, land, and community disputes, but not in all civil issues. Chiefs received government stipends but had no police or judicial powers.

Customary courts, based largely on Islamic law and local tradition, are located only in large towns and cities and try civil law cases. A legal practitioner with basic legal training, advised by an assessor knowledgeable in the society's traditions, heads these courts. The judicial actions of chiefs and customary courts are not regulated by formal law, and defendants can appeal a verdict in the formal court system.

Trial Procedures.—The law affirms the presumption of innocence. Trials are public, and juries are used. Defendants have the right to counsel, including at public expense for minors and indigent defendants charged with crimes carrying a sentence of 10 years or more. Those arrested must be notified of their right to a lawyer within 24 hours of detention. Defendants also have the right to be present at trial, to confront witnesses, and to present witnesses on their own behalf. The government has a legal obligation to inform defendants of all evidence against them, and defendants have access to government-held evidence. Defendants may appeal verdicts, first to the court of appeals and then to the Supreme Court. However, widespread ignorance of the law prevented many accused from taking full advantage of these rights.

Women do not have equal legal status with men in customary courts and traditional mediation and do not enjoy the same access to legal redress.

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

Civil Judicial Procedures and Remedies.—Courts of civil procedure exist in each major city. These courts are generally independent and impartial, and there is access to seek damages for and cessation of human rights violations. These courts hear lawsuits related to civil matters and can apply judicial remedies, while a single appellate entity is responsible for administrative remedies.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and law generally prohibit such actions, and the government generally respected these prohibitions; however, police may conduct searches without warrants when they have strong suspicion that a house shelters criminals or stolen property.

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—In 2007 the MNJ began a series of attacks against military and strategic installations in the country's uranium-rich northern region. The MNJ demanded greater regional autonomy and a larger share of the region's resources and claimed the government had not honored provisions of the 1995 peace accord that ended a five-year Tuareg rebellion. The government stated it had fulfilled most of the peace accord provisions. In response to the attacks, the government sent at least 4,000 troops to the region, where they continued to operate under special powers the president granted under the state of alert declared in 2007, until the government on November 26 lifted the state of alert. The state of alert allowed the government to arrest and detain persons without charge indefinitely, restrict freedom of movement, and ban live broadcasts discussing the government's policy in the north.

Killings.—Fighting between government and rebel forces resulted in the deaths of several civilians during the year. For example, on February 13, the army reported having killed one civilian in Tamazlak.

Soldiers killed suspected informants and rebel collaborators. There were reports that the army killed at least four civilians in the north during the period of January 9 to March 19.

There were no developments regarding the government's investigation into the army's 2007 killing of six civilians and an off-duty police officer near Tiguidit. In late September the victims' families decided to refer the case to the Economic Community of West African States (ECOWAS) Court of Justice, with a complaint against the government for failure to investigate the case and to bring suspected perpetrators to justice.

During the year landmines killed and wounded several persons, according to press reports. The government and the MNJ accused each other of laying the landmines.

According to local media, on March 8, a landmine exploded and injured three persons in Dao Timi, Bilma; on September 12, a landmine accidentally killed at least one government soldier and injured several others in Gougaram, Arlit.

Abductions.—Local human rights organizations and media published a list of at least 50 individuals held since 2007 in connection with the conflict in detention centers in various localities. While several were released in March, there were no credible reports that other detainees were released (see section 1.d.).

In February security forces detained four Swiss nationals in Dirkou, a town and military outpost located in the country's northeast corner, within the area under the state of alert. The four had traveled throughout the country and apparently were en route to Chad when security forces detained them and escorted them to Niamey.

There were several cases of abduction by alleged Tuareg rebels. On October 7, two unidentified gunmen briefly detained four employees of a mining company (three French citizens and one Nigerien) near the town of Arlit. The captors forced their victims to drive approximately 15 miles from the town, then forced them out and stole the vehicle.

Physical Abuse, Punishment, and Torture.—There were reports of torture by both government soldiers and Tuareg rebels.

There were reports that the army arrested several civilians and beat and detained them in military barracks before turning some over to law enforcement officials. Security forces held some individuals incommunicado.

Alleged rebels stopped transport vehicles, beat passengers, and stole their valuables.

Child Soldiers.—There were no reports of children being used in conflicts.

Other Conflict-Related Abuses.—Due to the peace efforts that reduced the conflict during the year and the recent disarmament of rebel groups, there were reports that displaced populations were gradually returning to their villages. Humanitarian organizations estimated that of approximately 5,000 persons who fled Iferouane, only

an estimated 500 were still displaced at the end of August. The state of emergency still in effect in the region and landmines on all major roads had limited the government and humanitarian organizations' access and assistance north of Agadez.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of expression; however, the government did not respect press freedom in practice, particularly in relation to the conflict in the north. Journalists practiced self-censorship. The state of alert in the north restricted journalists' travel and their reporting on the conflict (see section 1.g.).

Individuals generally could criticize the government publicly or privately without reprisal; however, the government attempted to impede criticism.

The government published a daily newspaper. There were approximately 45 private newspapers, some of which were affiliated loosely with political parties. The private press criticized government actions.

Radio was the most widely accessible medium. A government-owned radio station provided news and other programs in French and local languages. There were 15 private radio stations; eight were locally owned and featured news in local languages. Private radio stations were generally less critical of the government than private newspapers.

The two government-owned television stations broadcast in French and the major national languages. Three private television stations broadcast local and foreign programming and also began a daily newscast. A fourth private channel broadcast religious programming. International channels were available in Niamey.

International media were not allowed to operate freely. The government did not allow them to cover events freely in the north (see section 1.g.). BBC World Service was available in Niamey and Zinder. Private radio stations carried Voice of America and Deutsche Welle.

Security forces arrested and detained journalists during the year, mostly in relation to reporting on the conflict in the north. Security forces also arrested journalists under libel laws for reporting on other subjects.

The government suspended or closed several private media outlets during the year. One radio station—Sahara FM—remained closed at year's end. Government officials continued to use criminal libel laws and the media regulatory body to intimidate critics.

On January 23, judicial police arrested Boussada Ben Ali, publication director for independent weekly newspaper L'Action, following a complaint filed by the minister of economy and finance. Ben Ali was arrested for allegedly "divulging information likely to undermine public order." The charge stemmed from an article published in the January 13 edition of L'Action, which questioned the minister's awarding of a contract for the procurement of medical equipment. The same article also reported that the minister had inappropriately diverted CFA 127 billion (approximately \$283 million) from a petroleum agreement between Niger and China. On January 17, the High Council for Communications (CSC), the governmental media regulatory body, summoned Ben Ali to watch a video it said disproved his claim. The High Council ordered him to retract the story, but he refused. The Tribunal of Niamey arraigned Ben Ali and remanded him into custody on January 26. On February 6, the court convicted him of "disseminating information likely to undermine the public order" and sentenced him to three months in prison. He was released on April 26.

On April 1, police arrested and detained Abibou Garba, owner of the private media group TV and Radio Dounia, on charges of "broadcasting false information." Garba's arrest resulted from a March 27 debate broadcast on Dounia TV on French President Sarkozy's visit to Niger. During the debate, a civil society activist alleged that the true motive of Sarkozy's visit was to attend to private business matters related to French energy company Areva. Authorities provisionally released Garba on April 2 pending trial. No trial date was announced.

On April 6, the judicial police arrested and detained Ali Soumana, publisher of the independent newspaper Le Courrier, following a defamation complaint brought against him by the managing director of the state-owned water company SPEN, based on an article printed in the newspaper's March 26 issue accusing SPEN's manager of engaging in "dirty business deals" with a Chinese geological engineering company, which the newspaper claimed was corrupt, deceptive, and blacklisted by the World Bank. On April 7, the state prosecutor charged Soumana with two counts of "defamation" and "publishing false information" and released him until his trial on a date that had not been determined.

On April 29-30, the judicial police temporarily summoned Moussa Aksar, director of publication of the independent newspaper L'Evenement, in connection with an article which called for parliamentary investigations into certain mining licenses and

a contract for one billion CFA (approximately \$2.2 million) that the minister of the interior awarded to President Tandja's brother for the purchase of police motorcycles. When the police requested that he disclose his sources, Aksar refused to do so.

On June 29, the CSC ordered TV and Radio Dounia to suspend broadcasting indefinitely. The CSC president signed the order despite the objections of a majority of CSC board members, who issued a public statement to denounce the procedure as improper. Independent media organizations issued a strong statement criticizing Dounia's suspension. Dounia reopened on July 3 following a legal reversal of the CSC's suspension order. This was the second recent court decision vacating a CSC suspension order in Dounia's favor. On June 17, the Supreme Court ruled that the CSC overstepped its legal authority in suspending the Dounia Group for one month. The Supreme Court also ruled that the CSC's decision to suspend Dounia in August 2008 was unwarranted and ordered the government to compensate Dounia for lost revenue.

On July 8, President Tandja signed a resolution to amend Law No. 2006-24 of July 24, 2006 and greatly expand the authority of the CSC chairman. The resolution was implemented under the president's invocation of Article 53, granting himself emergency authority to rule by decree. The CSC chairman was empowered to take preventive measures without prior notification or approval from other council members if he determines that a media outlet has published or broadcast information deemed threatening to the state or public order. Under the new resolution, the CSC chairman is required to inform other council members only after disciplinary action has been taken, whereas until then such action could only be done with the approval of a quorum of council members, formal notification, and a hearing. The political opposition and defenders of press freedoms decried this attempt to constrain the private press.

Between July 20 and 26, independent media organizations went on strike to protest the president's unilateral decision to restrict their activities by expanding the authority of the CSC chairman. They decried the new powers of the CSC chairman to close independent media operators without due process, which they claimed undermined democracy and the rule of law during a critical period of national political debate. They demanded an immediate repeal of this decision.

On August 1, police summoned eight editors of independent local media organizations for questioning, just three days before the constitutional referendum intended to extend President Tandja's term of office. Police questioned the eight journalists (Moussa Aksar of *L'Evenement*, Ibrahim Souley of *L'Enqueteur*, Oumarou Keita of *Le Republicain*, Zakari Alzouma of *Opinions*, Abard Mouddour Zakara of *L'Actualite*, Assane Sadou of *Le Democrate*, Abdoulaye Tiemogo of *Le Canard Dechaine*, and Ali Soumana of *Le Courrier*) on reports published the previous week implicating one of the president's sons in a deal alleged to have netted him millions of dollars in kickbacks for brokering a uranium mining contract (see section 4). After being questioned and accused of defamation, six of the eight journalists were released after several hours without charges.

Two of the journalists, Tiemogo and Soumana, were held at the main police station in Niamey until their trials on August 11. In addition to questioning regarding the corruption charges levied against the president's son, officials accused Tiemogo of libel for a report published by his newspaper implicating the minister of justice in the mismanagement of 220 million CFA (approximately \$490,000), meant for a study on slavery in Niger, while he served as the president of the National Commission for Human Rights and Fundamental Liberties (CNDHLF). The police also questioned Tiemogo regarding a statement he made on Dounia TV on July 31 claiming that the new international arrest warrant for former prime minister Hama Amadou on charges of "illicit enrichment" and money laundering was politically motivated. Police accused Tiemogo of "discrediting the Ministry of Justice."

On August 18, Tiemogo was sentenced to a three-month jail term for "discrediting a judicial decision" because of his statements criticizing the prosecutor's decision to issue an international arrest warrant for former prime minister Amadou. Tiemogo appealed the sentence. An appeal hearing took place on October 12; a verdict to reduce his sentence to two months (time already served) was delivered on October 26, and Tiemogo was released.

On August 31, security officers forcibly moved Tiemogo from the Niamey National Hospital, where he was being treated for acute malaria, to a remote prison in Ouallam, 60 miles north of Niamey. Tiemogo's transfer was reportedly a deliberate attempt to isolate him and put his health at risk.

Officials detained Ali Soumana of *Le Courrier* in connection with a report that claimed that the CNDHLF misused 350 million CFA (approximately \$780,000) allo-

cated for oversight of the August 4 constitutional referendum. Soumana was granted provisional release on August 5. No date was set for his trial.

On August 2, 10 independent media organizations released a statement criticizing the government and police attempts to block investigations of corruption and to prevent antireferendum voices from being heard. Media organizations also said that the CSC president blamed the deputy director of Dounia Media Group for granting nearly unlimited air time to opposition leaders who called for action to prevent the referendum. The statement further noted that the minister of the interior had forbidden a Dounia journalist to report on citizens who planned to abstain from voting in the August 4 referendum. The Africa Program coordinator of the New York-based nongovernmental organization (NGO) Committee to Protect Journalists (CPJ) said, "The detention of Abdoulaye Tiemogo and Ali Soumana is part of a disturbing trend of harassment of independent journalists reporting on corruption in Niger."

On August 5, the police summoned the editor of Dounia TV, Seyni Amadou, and the director of Dounia Radio, Mahirou Amadou, for questioning about the July 31 Tiemogo interview. They were released without charge.

On September 20, security officials arrested the director of the private news weekly *Le Temoin*, Ibrahim Soumana Gaoh, for alleged defamation after publishing an article accusing the then minister of communications and government spokesperson, Ben Omar, of embezzlement. On September 23, the Tribunal of Niamey prosecutor charged Gaoh with defamation and ordered that he be held without bail until his trial on September 29. Security officials transferred Gaoh from police custody to the Niamey civil prison. On September 29, the court released him and dropped charges against him after his newspaper ran a full retraction in its September 28 edition. The retraction apologized for the false accusation linking the former minister of communication to a financial scandal at the telecommunications firm SONITEL.

Sahara FM, a private radio station in Agadez, which the CSC closed in April 2008 for broadcasting interviews with alleged victims of abuse by government troops, remained closed.

There were no further developments regarding journalists Aksar and Aboubakar's appeal of the November 2008 suspended sentences against them.

There were no further developments in the case of journalist Moussa Kaka (see section 1.d.). There were no further developments in the case of Air Info editor Ibrahim Manzo (see section 1.d.).

Internet Freedom.—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. However, few citizens used the Internet, due to lack of infrastructure. According to International Telecommunication Union statistics for 2008, approximately 0.54 percent of the country's inhabitants used the Internet.

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

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The constitution and law provide for freedom of assembly; however, police forcibly dispersed demonstrators. The government retained authority to prohibit gatherings under tense social conditions or if organizers did not provide 48-hour advance notice.

On February 26, three civil society umbrella groups organized a protest march and rally to denounce a bill increasing National Assembly members' allowances. There were reports that police used tear gas to prevent students from attending the protest.

On April 1, students staged a strike and violent protests in support of contract teachers in their dispute against the government over improvement of their working and living conditions. Police arrested two student leaders. On April 7, the Tribunal of Zinder charged the students with damaging private vehicles. On April 8, while the strike continued, the governor of Zinder terminated contract teachers and requested labor inspectors to prevent the private sector from employing them. On April 8, authorities released the students.

On April 13, supporters of former prime minister Hama Amadou attempted to prevent a meeting of the new MNSD leadership. Police intervened to disperse the crowd. At least 20 protesters were injured.

On April 13, students demonstrated in Tahoua. Police arrested 52 students; they released 35 the same day and kept the 17 others in custody. On April 14, the Tribunal of Tahoua dismissed the cases of 14 students and granted provisional release to the other three.

On June 1, an antireferendum demonstration turned into a riot in the city of Dosso, located 85 miles east of Niamey. Local police and armed forces with support from additional troops from Niamey restored order. Protesters set fire to the tradi-

tional chief's house and the governor's office and damaged several vehicles and other property. The police arrested and detained 11 local opposition members. The Niamey Court of Appeals heard the defendants' appeal and released them on November 3.

On July 15, security forces used batons and tear gas to break up a rally by a group of women activists associated with the FDD demonstrating in support of the dissolved Constitutional Court and its former president.

On July 17, pro-Tazarce youths ("Tazarce" is Hausa for "let it continue") who supported an extension of President Tandja's presidency interrupted an antireferendum conference being held in Zinder.

On July 22, the government requested the judiciary to ban the planned strike by the Inter-Union of Nigerien Workers (ITN), an association of the nation's seven labor confederations. A Niamey court ruled the threatened strike to be illegal. The ITN notified the government of its intention to hold a 48-hour strike to commence on July 23 in opposition to the referendum. The strike took place on July 30.

On July 23, the mayor of Niamey's Commune III refused to grant a rally permit to opposition groups which planned to demonstrate on July 26. Opposition representatives declared that they reserved the right to protest with or without rally permits through the referendum period. On the other hand, a proreferendum rally under the auspices of the first lady took place in Niamey on July 25.

On August 11, between 2,000 and 3,000 persons gathered outside the courthouse and staged a protest when police denied some of them access to FUSAD president Amadou's hearing. Police used tear gas and batons to disperse the crowd and detained an estimated 50 persons. Several individuals were injured including a journalist who suffered a broken wrist. The police released all those detained the same day.

On August 22, police prevented the CFDR from organizing a rally against the new constitution in front of the National Assembly. Municipal authorities had banned the rally, but the CFDR vowed to defy the injunction. When they were denied access to the National Assembly, hundreds of protesters moved to the Nigerien Alliance for Democracy and Progress (ANDP) headquarters, where they met. The police used tear gas and batons to disperse the crowd, and made several arrests. A few protesters suffered minor injuries in the confrontation with the police. Violent demonstrations were reported in Tahoua and Tillabery, where police arrested several persons. The CFDR reported that police arrested 16 individuals in Niamey, 11 in Tillabery, and 14 in Tahoua. Among those arrested were former member of parliament Soumana Sanda, a supporter of former prime minister Amadou, and Mamane Wada, secretary general of the Nigerien Association for the Fight Against Corruption (Niger's chapter of Transparency International). On August 27, the Tribunal of Niamey granted provisional release to 11 of the 18 persons detained, including Wada. The seven others were released during the first week of September.

On August 30, police forcibly dispersed a rally by the CFDR supporting the reinstatement of former members of the National Assembly. Police tracked down, beat, and injured several persons, including reportedly innocent onlookers.

On September 21, Zinder regional police used tear gas and batons to disperse the population of Korin Bakoye for celebrating Eid al-Fitr one day later than the government's announced Eid date.

On October 6, national police prevented 67 former National Assembly members from entering the headquarters of an opposition political party where they hoped to hold a meeting.

On October 27, the mayor of Niamey's Commune III refused to grant the Coordination of Niger's Civil Society (CSCN), another opposition umbrella group and member of the CFDR opposition coalition, a permit to demonstrate on October 31. The mayor claimed that "according to information in his possession" the proposed protest would disturb public order and that he did not have enough forces to police the event.

Freedom of Association.—The law provides for freedom of association; however, citizens may not form political parties based on ethnicity, religion, or region.

During the year the government attempted to restrict the activities of various civil society associations.

For example, on August 13, the government brought a case against FUSAD president Amadou on charges of "operating a nonauthorized organization."

On October 22, the Ministry of Youth and Sports sent a notice of eviction to Mahaman Hamissou, president of the CSCN, for alleged nonpayment of rent by his association. The CSCN rents an office within the government-owned Seyni Kountche Stadium. Hamissou said that he had receipts for all payments made during the year and denounced the government action as an attempt to restrict the activities of his association.

c. Freedom of Religion.—The constitution provides for freedom of religion, and other laws and policies contributed to the generally free practice of religion. Although the minister of religious affairs attempted to ban religious speech he considered threatening to public order, the government generally respected religious freedom in practice.

Islam was the dominant religion, and the Islamic Association, which acted as an official advisory committee to the government on religious matters, broadcast bi-weekly on the government-controlled television station. Government-controlled media broadcast Christian programs only on special occasions, such as Christmas and Easter, although independent media regularly broadcast such programs.

Religious organizations must register with the Interior Ministry. Registration is a formality, and there was no evidence that the government favored one religious group over another or that it ever had refused to register a religious organization. Approval is based on submission of required legal documents and the vetting of organization leaders.

The government monitors religious expression it views as potentially threatening to public order or national unity.

On March 11, the Niger Islamic Council (CIN), which includes the Islamic Association as a member, recommended to the government that sermons be regulated by requiring the CIN's approval of any preaching sessions. There were no reports that the government enforced this proposal in practice.

On March 17, the minister of religious affairs issued a statement, which constituted a ban, on national radio and television, regarding the practice of public preaching, to prevent "provocative sermons." The minister banned "parallel preaching" in markets or other "inappropriate locations."

On September 21, Zinder regional police used tear gas and batons to disperse the population of Korin Bakoye for celebrating Eid al-Fitr one day later than the government's announced Eid date.

Societal Abuses and Discrimination.—There were no reports of societal abuses or discrimination based on religious affiliation, belief, or practice, and prominent societal leaders took steps to promote religious freedom during the year. However, on March 3, two Muslim sects clashed in Niamey over the interpretation of Islamic doctrine. The police dispersed the crowd and briefly detained several protagonists.

On February 24, the Catholic Church in Niamey conducted an evaluation of its training that promoted interfaith sensitivity and dialogue. Evaluators recommended continued dissemination of positive views shared by Muslims and Christians and called on religious leaders to continue educating people to avoid behavior and language likely to sow discord.

There was no significant Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution and law provide for freedom of movement, foreign travel, emigration, and repatriation; however, the government continued to restrict freedom of movement in the north (see section 1.g.). The government also restricted foreign travel by former parliamentarians.

Throughout the country security forces at checkpoints monitored the movement of persons and goods, particularly near major population centers. They sometimes demanded bribes. Transportation unions and civil society groups continued to criticize such practices. During the year bandits set up roadblocks along highways where they robbed and killed travelers.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing assistance to internally displaced persons, refugees, returning refugees, asylum seekers, and other persons of concern.

Following the November 3-8 arrests of former parliamentarians, the government banned foreign travel for 124 former National Assembly members for an unspecified period. Former National Assembly members accused President Tandja of harassing them because of their refusal to approve a three-year extension to his original mandate and their intention to investigate alleged corruption scandals involving the executive branch regarding the allocation of mining permits and management of funds generated by the mining sector. According to former lawmakers, this resulted in the dissolution of the National Assembly and the organization of the controversial referendum.

For example, authorities told Fatouma Zara Zeine, a member of the dissolved National Assembly, to refrain from traveling to the United States on September 4. On

September 10, police at Niamey Airport denied former deputy and opposition leader Mahamadou Issoufou access to his flight to Benin and confiscated his passport. Subsequently, Issoufou received a summons requesting him to appear before a judge in connection with the National Assembly-related travel ban (see section 2.b.). Issoufou lodged a complaint regarding the travel restriction. On September 22, the court ordered that his passport be returned and he be allowed to travel.

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

Internally Displaced Persons (IDPs).—The conflict in the north displaced many persons (see section 1.g.).

International humanitarian organizations also reported that community conflict between farmers and herders especially in northern Tillabery Region caused displacement. Because of the pressures of desertification and population growth on subsistence farming and livestock herding, the main activities in this region, competition among farmers and herders for limited natural resources increased in recent years.

The government and humanitarian organizations provided food for IDPs. In April, following a request from the Agadez governor's office, the World Food Program delivered 690 metric tons of food to the northern communes, intended for 20,000 persons. According to local NGOs, approximately 100 school children were displaced from Ifrouane. Agadez regional authorities stated they allowed many displaced parents from Ifrouane and Tchintelous who settled in Agadez City or Arlit to register their children in public schools. Authorities assigned teachers to the schools and supplied those that had canteens.

With the easing of the conflict in 2009, many IDPs started to return home. According to NGO reports, the return movement to Ifrouane started at the beginning of the year with dozens of persons with support from the local town council. According to the UN Office for the Coordination of Humanitarian Affairs (OCHA), as of July, five humanitarian clusters (health, nutrition, food security, education, and water, sanitation and hygiene) were functioning across the country and OCHA had opened a suboffice in Agadez.

Protection of Refugees.—The country is a party to the 1951 Convention relating to the Status of Refugees, the 1967 Protocol relating to the Status of Refugees, and the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. However, its laws do not provide for granting asylum or refugee status in accordance with the 1951 UN Convention or the 1967 protocol, and the government has not established a system for providing protection to refugees. In practice the government did not routinely grant refugee status or asylum but provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. During the year the government also provided temporary protection to approximately 352 individuals who may not qualify as refugees under the 1951 convention or the 1967 protocol.

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

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

Elections and Political Participation.—In 2004 voters elected Mamadou Tandja to his second five-year presidential term with 65 percent of the vote in an election that international observers described as generally free and fair, despite some irregularities on election day. However, citizens' right to choose their leaders was subsequently abridged by the president's actions, widely viewed as unconstitutional and taken to consolidate his hold on power.

On August 4, the government organized a controversial referendum on a new constitution after President Tandja dissolved the National Assembly, assumed emergency powers, dissolved the Constitutional Court, suspended related constitutional provisions, and amended the electoral code.

Opposition parties, civil society organizations, labor unions, and regional and international bodies in vain pressed the president to refrain from organizing the referendum. Although accounts of the level of voter participation vary widely, the CENI claimed that 92.5 percent voted in favor of adopting the new constitution, which permits the president to remain an additional three years in office, confers full executive powers, and eliminates presidential term limits after 2012.

On October 20, the government organized legislative elections based on the new constitution to replace the 113 members of the National Assembly which had been

dissolved on May 26. Under the previous constitution, the president was required to organize legislative elections within 45-90 days after the dissolution of the National Assembly. Six million voters were registered for both the referendum and the legislative elections. There were 19,331 polling stations nationwide. The referendum and the legislative elections took place in a generally peaceful atmosphere. Several groups of African and local observers monitored the polls and stated that the elections were generally free, fair, and transparent despite some irregularities on election day.

However, traditional observer groups including the UN, the African Union, ECOWAS, the Francophonie Organization, and foreign embassies refused to monitor the referendum and legislative elections. Various competing parties and independent candidates complained about purported illegal practices such as the distribution of money and other gifts for votes, partisan transportation of voters, ballot stuffing, missing ballots for some parties at some polling stations, late opening of polling stations, interference with voting by government officials, and corruption of local CENI members.

Under the new constitution, enacted on August 18, the president appoints one-third of the Senate's 60 members, the prime minister, five of nine members of the Constitutional Court (the presidents of the National Assembly and the Senate appoint two each), four of seven members of the CSC media regulatory body (the presidents of the National Assembly and the Senate each appoint one, and the minister of communication appoints one), and the presidents and vice presidents of the latter two institutions.

The new constitution established a presidential-type political regime under which the president cannot dissolve the National Assembly and the latter cannot sanction the prime minister via a motion of no confidence. Unlike under the previous constitution, the prime minister is no longer head of government. The president now holds that position.

The new constitution states, "The President of the Republic is the exclusive holder of the executive power. He is the head of government. He appoints the Prime Minister and cabinet members and determines their powers. The Prime Minister and members of the cabinet report to the President. He terminates their functions" (Article 48). "The President of the Republic is elected via free, direct, equal, and secret universal suffrage, for a mandate of five years renewable" (Article 39).

While the previous parliamentary system comprised only a single-chamber National Assembly, the new constitution provides for a bicameral parliament. "The legislative power is executed by the Parliament. Parliament is made up of two chambers: the National Assembly, [and] the Senate" (Article 68). National Assembly members (Deputies) "are elected via free, direct, equal, and secret universal suffrage. The legislature lasts 5 years" (Article 69). The Senate "ensures the representation of local councils, traditional chiefs, and Nigeriens abroad. Two-thirds (2/3) of Senate members are elected via indirect universal suffrage. The other third is appointed by the President of the Republic. Senators' mandate lasts 5 years. No one can be elected or appointed Senator if he/she is not at least 45 years old on the day of voting or appointment" (Article 72).

Some provisions of the new constitution are not subject to change. "No revision procedure can be engaged or pursued when there is an offense against the integrity of the national territory. The republican form of State, the multiparty system, the separation of State and religion, and the provisions of articles 154 and 159 cannot be revised" (Article 152).

Article 154 of the new constitution stipulates, "The incumbent President of the Republic shall remain in office until the presidential election, which will take place in December 2012."

Article 159 provides that "Law 2000-14 of January 24, 2000[,] regarding amnesty for the authors of the January 27, 1996[,] and April 9, 1999[,] coups d'etat shall remain in force in all its provisions."

"Legislative elections will take place no later than October 2009. While awaiting the installation of the National Assembly, the President of the Republic is empowered to execute legislative powers via ordinances, in the following areas: political elections, installation of new institutions, [and] implementation of agreements with foreign partners" (Article 155). "Local elections will take place no later than December 2009" (Article 156).

In the October 20 legislative elections, the MNSD, the main party of the coalition supporting President Tandja, won 76 of the 113 National Assembly seats. Five parties aligned with the MNSD won 25 seats while 11 seats went to independent candidates. The Nigerien Party for Self-Reliance (PNA), one of the three opposition parties that did not boycott the election, won one seat. The Constitutional Court validated the results on November 10, and the National Assembly was installed on No-

venember 14. Due to the ongoing political crisis, the referendum, and legislative elections, the president reshuffled the cabinet several times—on May 14, June 29, August 19, October 2, and October 10. On October 2, the president appointed Ali Badjo Gamatie as prime minister; former prime minister Seini Oumarou had resigned September 23 to be eligible to run in the October legislative elections.

Opposition parties, civil society organizations, and labor unions boycotted and rejected the results of the August referendum, which they considered “a constitutional coup d’état.” They also boycotted the October legislative elections. Regional and international bodies continued to press the political protagonists for a dialogue to restore a “normal constitutional order.”

Political parties operated without restriction or outside interference. Individuals and political parties could freely declare candidacies and stand for election.

The law mandates that women fill 25 percent of senior government positions and 10 percent of elected seats; women held at least 10 percent of the 3,724 local council positions. There were 11 women in the 113-member National Assembly and seven female ministers in the 32-member cabinet; five of the country’s 20 ambassadors were women.

All major ethnic groups were represented at all levels of government. There were eight seats in the National Assembly designated for representatives of “special constituencies,” specifically ethnic minorities and nomadic populations. President Tandja, reported to be half-Fulani and half-Kanuri, is the country’s first president who is not from either the Hausa or Djerma ethnic groups, which respectively make up 56 percent and 22 percent of the population.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials often engaged in corrupt practices with impunity. The World Bank’s most recent Worldwide Governance Indicators reflected that corruption was a severe problem. The government publicly acknowledged corruption as a problem.

Civil servants sometimes demanded bribes to provide public services. A poorly financed and trained law enforcement system and weak administrative controls compounded corruption. Other underlying causes were poverty; low salaries; the politicization of the public service; the influence of traditional kinship, ethnic, and family ties on decision making; a culture of impunity; and a lack of civic education.

In January 2008 the government established an intersectoral committee on corruption charged with “examining and approving general and annual . plans for actions to be carried out in . support for the fight against corruption.” On September 24, the minister of justice chaired the opening of a capacity-building workshop for judges on the implementation of laws and regulations relating to economic and financial crimes.

As a consequence of this year’s political crisis, there was a delay in drafting the legislation to establish a national agency for the fight against corruption.

On July 27, several local newspapers featured a purported memorandum of agreement between Multimedia Communications and one of the president’s sons, Hadia Toulaye Tandja, on the one hand, and an Australian mining firm on the other, detailing the creation of a company called “Niger Uranium Ventures SA.” Under the agreement, signed in January 2008, the manager of Multimedia Communications, Ibrahim Hamidou, a reported political and business associate of the president’s family, and the president’s son were to share a commission of \$5 million plus 25 percent of the new company’s shares. In a television interview the manager of Multimedia Communications acknowledged the existence of the contract but said he had not yet received the money. There were no further developments or prosecutions in the matter.

On December 11, the Tribunal of Maradi ordered the arrest of five mayors from Maradi Region on charges of embezzling public funds. The defendants included the mayors of Aguié, Tchadaoua, Madarounfa, Tibiri, and Gangara, and their respective financial managers. Investigations continued at year’s end.

There were no further developments regarding the three district mayors of the city of Maradi detained in March 2008 for purported involvement in corruption and given provisional release.

There were no further developments regarding the case of the mayors of Falmey, Ngonga, and Dosso in Tillabery Region, detained in April 2008 on mismanagement and corruption charges.

There were no further developments regarding the case of the mayors of Sokorbe and Loga in Dosso Region, detained in May 2008 on charges of embezzlement.

There were no further developments regarding the case of the mayor of Niamey Commune II, Seyni Mounkaila, suspended in June 2008 for embezzlement of 125 million CFA (approximately \$280,000).

In June 2008 the National Assembly passed a resolution requesting that the HCJ indict former prime minister Amadou on charges of misusing funds meant to support the private press, and the HCJ subsequently ordered Amadou be detained at the maximum security Koutoukale prison. On April 23, the HCJ approved Amadou's request for provisional release. He left the country on April 24 to seek medical care in Europe. On July 29, the Tribunal of Niamey issued an international warrant via Interpol for his arrest on charges of "illicit enrichment" and money laundering in the amount of 15 billion CFA (approximately \$33 million), including 500 million CFA (\$1.1 million) in shares of a telecommunications company put in his son's name. Amadou and his supporters continued to claim that the warrant for arrest was another example of political harassment against him.

In November 2008 the Supreme Court indicted and ordered the arrest of former justice minister Maty Elhadji Moussa on charges of illicit enrichment and fraud. The Supreme Court granted Moussa provisional release in June.

There were developments in the 2007 corruption case involving the president of the Niamey City Council, Aboubacar Seydou Ganda, and five of his senior staff members. Ganda and 12 other persons involved in the case remained on provisional release.

There were no developments in the MEBA corruption case reopened in December 2007 and subsequently postponed.

Articles 43 and 44 of the new constitution require the president of the republic, presidents of other government institutions, and cabinet members to submit written statements of their personal property and other assets to the Constitutional Court upon assuming office. These statements are to be updated annually and at the end of an individual's term. Initial statements and updates are published in the National Register and the press. Copies of the statements are forwarded to fiscal services. Any discrepancy between the initial and the updated statements must be justified. The Constitutional Court has authority to assess such matters.

The State Inspectorate and the country's courts are responsible for combating government corruption.

There were no laws that provided for public access to government information; however, many documents could be obtained from individual ministries and the National Archives. The government granted access to government information to both citizens and noncitizens, including foreign media.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views, but insecurity and travel restrictions in the north limited the ability of human rights groups to investigate human rights violations.

The government-established CNDHLF operated without government interference; however, it lacked resources, was generally considered ineffective, and it issued few reports or recommendations.

In August 2008 the government established a mediator of the republic. The mediator's role is to solve difficulties in the implementation and interpretation of laws and regulations. The president appoints the mediator, who is an independent administrative authority charged with investigating citizens' complaints and trying to find amicable solutions. The mediator has no decision-making powers, however, and instead submits results of investigations to the president and the prime minister.

There were no further developments regarding the August 2008 appeals of the Niamey District Court's verdict on the 2005 beating of civil society activist Nouhou Arzika.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status, and the government generally effectively enforced these prohibitions.

Women.—Rape is punishable by 10 to 30 years' imprisonment, depending on the circumstances and age of the victim. The law does not explicitly recognize spousal rape but appears to cover it in practice. Authorities made efforts to enforce the law. Although statistics were not available, the Court of Appeals tried several criminal rape cases during the year. For example, on January 5, the Konni Court of Assizes had four rape cases on its calendar; on January 12, the Maradi Court of Assizes had 15; and on December 2, the Tribunal of Dosso had 17. However, in many cases

spousal rape did not lead to prosecution, as victims often sought to resolve the issue within the family or were pressured to do so.

Domestic violence against women was widespread, although reliable statistics were not available regarding occurrences, prosecutions, or convictions. Husbands commonly beat their wives. The law does not explicitly prohibit domestic violence; however, a woman can sue her husband or lodge criminal charges for battery, penalties for which ranged from two months in prison and a 10,000 CFA (approximately \$22) fine to 30 years' imprisonment. The government tried with limited success to enforce these laws; courts prosecuted cases of domestic violence when they received complaints. Charges stemming from family disputes were often dropped in favor of traditional dispute resolution mechanisms. While women have the right to seek redress for violence in the customary or modern courts, few did so due to ignorance of the legal system and fear of repudiation or social stigma. The Ministry of Women's Promotion and Children's Protection, international organizations, NGOs, and women's organizations conducted public awareness campaigns on violence against women through several events that received wide media coverage.

According to the UN Children's Fund (UNICEF), 429 cases of violence against women were reported from October 2006 through September 2007. However, this figure is thought to understate greatly the actual prevalence. Battery represented 44.9 percent of the cases, indecent assault 17.6 percent, and rape or attempted rape 16.4 percent.

Prostitution is illegal but remained prevalent in big cities and near major mining and military sites.

Sexual harassment is a crime punishable by prison sentences from three to six months and fines of 10,000 to 100,000 CFA (approximately \$22 to \$220). If the violator is in a position of authority over the victim, the prison sentence is three months to one year, and the fine is increased to 20,000 to 200,000 CFA (\$45 to \$450). Sexual harassment was common. Courts enforced applicable laws as cases were reported.

The government recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children. However, while the law protects reproductive rights, information regarding reproductive rights was not readily available. There are no restrictions on the right to access contraceptives. Health clinics and local health NGOs were permitted to operate freely in disseminating information on family planning under the guidance of the Ministry of Public Health. According to the ministry, use of contraceptives increased from 8.5 percent in 2006 to 13 per cent in 2008.

Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV. Since 2007, the government has guaranteed free health care for children up to five years of age; this contributed to increased women's access to health centers for general and essential obstetric and postpartum care, including prevention of mother-to-child transmission of HIV. However, due to a shortage of skilled health professionals and limited resources, some women used traditional midwives (matrones) during childbirth and were referred to hospitals only when the mother or child suffered more serious health complications.

The constitution provides for equal rights regardless of sex; however, women do not have the same rights as men under family law in customary courts. Legal rights as head of household apply only to men; a divorced or widowed woman, even with children, was not considered to be a head of household. Traditional and religious beliefs resulted in discrimination in education, employment, and property rights. Discrimination was worse in rural areas, where women helped with subsistence farming and did most of the childrearing, water- and wood-gathering, and other work. Despite constituting 47 percent of the formal sector work force, only 26 percent of civil service workers and 22 percent of professionals were women in 2006. In the absence of a formal will stating otherwise, women received one-third of a deceased parent's property. In the east there were reports that some husbands cloistered wives and prevented them from leaving their homes unless escorted by a male relative and usually only after dark.

In the civil service and the formal sector there was no indication that women experienced discrimination in access to employment or pay for similar work.

The country has adopted several laws and regulations for the development of women. The law mandates that women fill at least 25 percent of senior government positions and at least 10 percent of elected seats in order to increase their presence in decision-making positions. The government also had programs to provide microcredit, access to clean water, and access to health services for women.

Children.—Citizenship is derived from one's parents. Birth registration, especially in remote rural areas and in nomadic communities, did not take place promptly due to a lack of awareness, remoteness of government services, or inadequate resources.

The government with the support of UNICEF worked to address this problem. The government's failure to register births did not result in denial of public services.

In principle, elementary education, which lasts six years, was compulsory, free, and universal from the age of six; however, in practice only a fraction of children attended school. The country's minimum age requirement for labor is consistent with the national requirement that children complete six years of education. The government estimated that the gross national primary school enrollment rate was 52 percent in 2006, and the net primary school enrollment rate was 41 percent; boys constituted 60 percent of those who finished primary school. UNICEF in 2007 estimated that only one-third of primary and only 6 percent of secondary-school-age girls were enrolled, and even fewer attended regularly. Most parents kept young girls at home to work, and girls rarely attended school for more than a few years. This resulted in estimated literacy rates of 15 percent for girls and 43 percent for boys, according to a 2006 UN Development Program report. Literacy rates, particularly for girls, were even lower in rural areas. The conflict in the north led thousands of children to avoid school and caused schools in the north to shut down (see section 1.g.).

Violence against and abuse of children was common. Each of the 10 district courts and the 36 magistrates' courts had at least one juveniles' judge who addressed children's issues, including child labor. All judicial police sections at the regional and district levels may handle cases involving juveniles and refer them to the judge. The government also collaborated with UNICEF and the International Labor Organization (ILO) in programs designed to improve enforcement of the law and to sensitize civil servants, parents, traditional chiefs, and other key actors on children's rights.

FGM is against the law and punishable by six months to three years in prison. If an FGM victim dies, the practitioner can be sentenced to 10-20 years' imprisonment. Certain ethnic groups practiced FGM, predominantly the Fulani and Djerma in the western region. According to UNICEF, the FGM rate decreased from 5 percent in 1998 to 2.2 percent in 2006. However, an October 2008 UN IRIN report stated that circumcisers traveled from Burkina Faso to Niger to carry out FGM on nomad Gourmantche girls as part of a rising trend of crossborder FGM. FGM was practiced on young girls, and clitoridectomy was the most common form. The government actively combated FGM, continuing its close collaboration with local NGOs, community leaders, UNICEF, and other donors to distribute educational materials at health centers and participate in educational events. On April 7, as a result of an 18-month sensitization and training session provided by the Inter-Ministerial Committee for the Fight against FGM and a local NGO, 10 villages in the Makalondi local council area near the border with Burkina Faso publicly abandoned the practice of FGM. Such training was extended to 10 other villages in May.

Child marriage was a problem, especially in rural areas. The law allows a girl deemed to be "sufficiently mature" to marry as young as 15 years old. Some families entered into marriage agreements under which girls from rural areas were sent by the age of 10 or 12 and sometimes younger to join their husbands' families under the tutelage of their mothers-in-law. The Ministry of Women's Promotion and Child Protection cooperated with women's associations to sensitize rural communities and their traditional chiefs and religious leaders to the problem of underage marriage.

Child prostitution was a problem. The Penal Code criminalizes the procurement of a minor for the purpose of prostitution. There was no precise age of consent; however, the law prohibits "indecent" acts toward minors. It was left to a judge to determine what constituted an indecent act. Such activity and a corollary statute against "the incitement of minors to wrongdoing" were punishable by three to five years in prison. This provision also applies to child pornography. There were reports that some child prostitution existed along the main east-west highway, particularly between the cities of Birni n'Konni and Zinder along the Niger-Nigeria border. There was also evidence of young girls working mainly as domestic servants and occasionally as prostitutes, sometimes with the complicity of their families.

The constitution and law require the government to promote children's welfare; however, minimal financial resources were allotted for this purpose. The government continued its multifaceted public education campaign on children's rights. This included forced labor issues, efforts to improve girls' education, the dangers of child marriage, improvements in birth registration, and efforts to withdraw children from the labor force and reenroll them in schools and vocational training programs.

Infanticide occurred, and at least 50 percent of the female prison population was charged with the crime.

Many displaced children, mostly boys from rural areas and were indentured to Islamic schools, begged on the streets of larger cities. Hundreds of children were displaced in conjunction with the conflict in the north (see section 1.g.). Displaced children had access to government services (see section 2.d., IDPs).

Trafficking in Persons.—The law does not specifically prohibit trafficking in persons, and persons were trafficked to, from, and within the country. Traffickers could be prosecuted under a law against slavery and coerced labor; punishments ranged from 10 to 30 years' imprisonment. Child prostitution is not criminalized specifically; however, the law prohibits indecent acts toward minors. Such activity and a corollary statute against "the incitement of minors to wrongdoing" were punishable by three to five years in prison.

A 2005 NGO survey found that 5.8 percent of households interviewed claimed that at least one member of their family had been a trafficking victim.

A traditional form of caste-based servitude was still practiced by the Tuareg, Djerma, and Arab ethnic minorities.

The country was a transit point for persons trafficked between Nigeria, Benin, Togo, Ghana, Burkina Faso, and Mali; final destinations also included North African and European countries. The country was a source of women trafficked to Nigeria, North Africa, Europe, and the Middle East for domestic servitude and commercial sexual exploitation.

The country was a destination for a small number of persons, including young boys, trafficked into the country for labor exploitation. Women and girls were trafficked into and within the country for domestic service and prostitution. Child prostitution was especially prevalent along the main east-west highway, particularly between the cities of Birni n'Konni and Zinder.

There was internal trafficking of boys. Some rural parents sent their sons to learn the Koran in the cities, where the boys worked for their teachers (marabouts) as beggars or provided manual labor. Traffickers also transported boys to Mali and Nigeria for this purpose. Traffickers transported children internally for work in mines.

Generally, small operators trafficked persons with false promises of well-paid employment in the country. Victims usually had to perform poorly paid domestic work or prostitution upon arrival and had to pay off a "debt" to the trafficker. Traffickers had victims sign agreements before departing their country of origin and took the victims' travel documents. Traffickers used similar methods to transport victims from Niger to other countries. Traffickers within the country forced or falsely enticed some girls into prostitution, sometimes with their families' complicity.

The government prosecuted traffickers. During the year, law enforcement authorities arrested several traffickers in connection with the trafficking of at least 47 children. Of these, officials released two without charge but charged the others with the abduction of minors.

During the year local authorities assisted UNICEF and a local NGO partner to identify and rehabilitate child victims of trafficking in the Agadez and Niamey regions. From May through August, police and prosecutors rescued 23 children (15 in Agadez and eight in Niamey) but made no arrests because the children were sent by their families "to look for work" and were at risk of being trafficked. Police handed the children over to a local NGO for rehabilitation and return to their families.

On January 15, EPAD, a local NGO, acting in conjunction with local law enforcement authorities, apprehended two Malian marabouts suspected of trafficking 22 Malian children to live and work in remote villages in the vicinity of Ayorou, Tillabery Region. EPAD reported that migration of adult workers to the new work site of the Kandadji Dam project had left the area with a labor force shortage, and the marabouts were hiring out the children to work in rice fields. The two marabouts were in custody in Tillabery at year's end. EPAD temporarily hosted the children in its welcome center in Makalondi before returning them to their families.

On February 16, Nigerien police referred to a local NGO a young Nigerien woman suspected of being a victim of trafficking. She was 14 years old when a Togolese lured her to travel with him to Togo, where he obtained false identity documents for her, married her, and had two children with her. According to the woman's parents, Togolese law enforcement authorities kept custody of the children, but did not indict the suspected trafficker. The woman and her parents sought assistance in taking legal action to claim custody of the two children. The case was pending at year's end.

On August 4, Nigerien and Nigerian police arrested a Nigerien on charges of trafficking his 15-year-old nephew in Ogbomosho, Nigeria. The child had not been found, and the suspected trafficker remained in custody in Niamey prison at year's end.

The Malian marabout suspected of trafficking 11 children in 2008 remained in prison pending his trial.

There were no further developments in the case of three traffickers in custody since 2007 on charges of child trafficking in Agadez.

The ministries of justice, interior, and the promotion of women and protection of children shared responsibility for combating trafficking in persons. The National

Commission for the Coordination of the Fight Against Trafficking in Persons existed on paper but had no budget.

The government provided some services directly to some trafficking victims, including basic health care and assistance in returning to their home villages. The government also supported the efforts of NGOs and international organizations in providing food, temporary shelter, and primary health care to victims of trafficking, and sponsored public outreach sessions on trafficking and child abuse.

The State Department's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The constitution and law prohibit discrimination against persons with physical and mental disabilities in employment, education, and access to health care and other state services, and the government generally enforced these provisions. The law mandates that the state provide for such persons, but there were no specific regulations mandating accessibility to buildings, transportation, and education for those with special needs. The government provides limited health care to persons with disabilities. Societal discrimination existed against persons with disabilities, particularly mental disabilities and leprosy. The Ministry of Population and Social Welfare is responsible for protecting the rights of persons with disabilities.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—There are no laws criminalizing sexual orientation. There were no known lesbian, gay, bisexual, or transgender persons' organizations and no reports of violence against individuals based on their sexual orientation or gender identity. However, gay persons experienced social discrimination.

Other Societal Violence or Discrimination.—Persons with HIV/AIDS experienced social discrimination. There were strong government efforts to discourage such discrimination. The government continued its antidiscrimination campaign in conjunction with several other organizations working on HIV/AIDS issues.

For example, on February 26, the first lady, with support from the government's National Coordination for the Fight against AIDS, local NGOs, and the Joint UN Program on HIV/AIDS (UNAIDS), launched an advocacy campaign for the fight against HIV/AIDS. NGOs led public advocacy sessions and discussions in order to eliminate the stigma against persons living with HIV/AIDS. Between April 20 and 26, the Nigerien Social Marketing Association, a local NGO, led a nationwide campaign on "demystifying AIDS and combating stigma" featuring public testimony by persons living with HIV/AIDS, town hall meetings in various regions, and radio shows which continued at year's end.

Section 7. Worker Rights

a. The Right of Association.—The constitution and law allow all workers to form and join trade unions without previous authorization or excessive requirements, and workers exercised this right; however, in 2006 more than 85 percent of the workforce worked in the nonunionized subsistence agricultural and small trading sectors.

The constitution and the law provide for the right to strike, except for the police and other security forces, and workers exercised this right. Requirements for conducting a legal strike are not lengthy or cumbersome; workers must give employers at least three days' advance notice. However, on several occasions during the year the government filed lawsuits before the Tribunal of Niamey, which declared some strikes proposed by unions to be illegal on the grounds that they involved political rather than labor issues.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and unions exercised their right to bargain collectively for wages above the legal minimum and for more favorable working conditions. Collective bargaining also existed in the public sector. Antiunion discrimination and employer interference in union activities occurred occasionally. There were no further developments in the 2006 case of the dismissal of 106 Liptako Mining Company union members for striking.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, except for legally convicted prisoners, and prohibits slavery; however, it does not specifically prohibit forced or compulsory labor by children, and such practices occurred. In general, the government did not adequately enforce the anti-slavery laws. A traditional form of caste-based servitude was still practiced by the Tuareg, Djerma, and Arab ethnic minorities, particularly in remote northern and western regions and along the border with Nigeria.

Persons born into a traditionally subordinate caste sometimes worked without pay for those above them in the traditional social structure. Estimates regarding the

number of persons who work under such conditions vary widely, and include a 2004 estimate of 8,800 and a 2003 estimate of 43,000. Under this system, persons are forced to work without pay for their masters throughout their lives, primarily herding cattle, working on farmland, or working as domestic servants. Children become the property of their masters and can be passed from one slave owner to another as gifts or as part of a dowry. Abusers force girls to start work as domestic servants at a very young age. Girls may be sexually abused by men in the household or forced to marry at a young age.

The government publicly banned slavery in 2003, and during the year slaves continued to be liberated and given certificates to show that they were free. Individuals had the legal right to change their situations, and it was illegal for their masters to retain them; however, in practice, most victims of slavery did not act on their rights. Fear and physical or social coercion as well as a lack of viable economic alternatives for freed slaves were factors in maintaining the slave/master relationship.

On November 24, the Tribunal of N'Guigmi, Diffa, sentenced Moussa Adam to five years in prison, 10 million CFA (approximately \$22,000) in damages to the victim, a CFA 500,000 (\$1,100) fine to the government, and CFA 500,000 (\$1,100) to the NGO Timidria as compensation for moral prejudice for the enslavement of Ibrahim Aytawe. The defendant was arrested and put in custody in August, following Timidria's complaint before the tribunal based on reports that Moussa Adam, a Mohamid Arab, held Ibrahim Aytawe, a Hausa from Maradi Region, as a slave in his village of N'Gourti. At year's end, the defendant had neither appealed the judgment nor paid the fines ordered by the court.

In compliance with the October 2008 Economic Community of West African States' Court of Justice ruling in the case Timidria and Hadidjatou Mani Koraou vs. the Government of Niger, on March 13, the defendant paid 10 million CFA (approximately \$22,000) in damages to the victim.

On July 21, the tribunal of Birni n'Konni convicted and sentenced Souleymane Naroua to a two-year suspended prison term and ordered him to pay one million CFA (approximately \$2,200) in damages to Hadizatou Mani and a fine of CFA 500,000 (\$1,100) to the government. On July 25, Naroua complained that the sentence was excessive and filed an appeal before the Court of Appeals of Niamey. The same day, domestic human rights NGOs counterappealed before the same court, claiming that the sentence against Naroua was not sufficiently stringent. No date had been set for hearings.

In December 2008 the Court of Appeals of Niamey held hearings on the 2006 slavery case of Timidria and Assibit Wanagoda vs. Tafane and delivered its verdict on February 9. The court found no grounds for prosecution and dismissed the case. Plaintiffs said they would file an appeal before the Supreme Court but had not done so by year's end.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits the employment of children under age 14, except as authorized by decree; however, child labor was a problem, and the government did not effectively enforce the law. A 1967 labor decree also regulates child labor. Children under the age of 12 are prohibited from working. Twelve- and 13-year-olds may perform nonindustrial light work for a maximum of two hours per day outside of school hours with a labor inspector's authorization, as long as such work does not impede their schooling. Light work is defined as including some domestic work, fruit picking and sorting, and other light nonindustrial labor. Those 14 to 18 years of age may work a maximum of 4.5 hours per day. Children may not perform work that requires force greater than their strength, may damage their health or development, is risky, or is likely to undermine their morality. The law requires employers to ensure minimum sanitary working conditions for children.

In June 2008 the country's unions and women's associations stated that 46 percent of school-age children were in difficult conditions, performing work beyond their physical abilities in mines, slaughterhouses, and domestic work.

Children worked in the agricultural, commercial, handicraft, and domestic service sectors. The majority of rural children regularly worked with their families from an early age helping in the fields, pounding grain, tending animals, gathering firewood and water, and doing similar tasks. Some boys were kept out of school to work as beggars alongside blind relatives. Others were sent to Islamic schools where their teachers used them for work as beggars and for manual labor. Child labor also occurred in largely unregulated artisanal gold mining operations, as well as in trona (a mineral used as a source of sodium compounds), salt, and gypsum mines. Children working in gold mines were particularly vulnerable to poor ventilation, collapse hazards, and insufficient lighting; they also were susceptible to alcohol and substance abuse. Young boys from neighboring countries were trafficked into the country to work in mines, on farms, as mechanics, or as welders.

Child trafficking, prostitution, forced labor, and traditional caste-based servitude and slavery occurred.

Inspectors of the Ministry of Labor are responsible for enforcing child labor laws; however, resource constraints limited their ability to do so, and there were no child labor inspections during the year.

The Ministry of Mining reportedly sought to make artisanal mining licenses contingent upon agreements not to use child labor, but this proposal had not been adopted.

The government also worked with international partners to provide relevant education as an inducement to parents to keep their children in school. The Ministry of Basic Education conducted training sessions to help educators meet the special needs of child laborers. The government cooperated with a foreign government-funded project that was implemented by ILO's International Program for the Elimination of Child Labor (ILO/IPEC) to eliminate child labor in the mining sector.

The government supported a 2006-10 foreign donor program with funds of 1.5 billion CFA (approximately \$3.3 million) for the prevention and elimination of child labor in mining in West Africa, implemented by ILO/IPEC. The project was launched in 2006 and targeted approximately 3,000 children.

On June 10-12, on the occasion of the World Day Against Child Labor, ILO/IPEC and the government organized public events and a conference to raise awareness of the issues the country faces in combating the worst forms of child labor and child trafficking.

On June 25, foreign diplomats visited three artisanal gold mines in Tillabery Region and noted that the government and several NGOs had made noticeable investments in both infrastructure and social programs to combat the problems of child labor and trafficking.

In October the Ministry of Labor launched the review process for the draft National Action Plan against Child Labor. The review will be carried out in all regions, and proposed amendments will be included in the final document expected to be adopted during the first quarter of 2010.

e. Acceptable Conditions of Work.—The labor code establishes a minimum wage only for salaried workers in the formal sector with fixed (contractual) terms of employment. Minimum wages are set for each class and category within the formal sector; however, minimum wages did not provide a decent standard of living for workers and their families. As of 2006 the lowest minimum wage was 28,000 CFA (approximately \$62) per month, with an additional 1,000 CFA (\$2) added per month per child. The Ministry of Labor effectively enforced minimum wages only in the regulated formal sector.

The formal sector legal workweek was 40 hours with a minimum of one 24-hour rest period; however, the Ministry of Labor authorized longer workweeks of up to 72 hours for certain occupations such as private security guards, domestic workers, and drivers. Premium pay must be paid for overtime, although the rate is not set by law; employees of each enterprise or government agency negotiate with their employer to set the rate. These formal sector standards were effectively enforced.

The labor code establishes occupational safety and health standards. The Ministry of Labor is charged with enforcing these standards, although due to staff shortages inspectors focused on safety violations only in the most dangerous industries: mining, building, and manufacturing. The government effectively enforced the standards within those three industries, except that gold mining was largely unregulated. Although generally satisfied with the safety equipment provided by employers, citing in particular adequate protection from radiation in the uranium mines, union workers in many cases did not receive information about the risks posed by their jobs. Workers have the right to remove themselves from hazardous conditions without fear of losing their jobs. There are no exceptions from such protections for migrant or foreign workers.

NIGERIA

Nigeria is a federal republic of 36 states and a capital territory, with a population of approximately 150 million. In 2007 Umaru Musa Yar'Adua of the ruling People's Democratic Party (PDP) was elected to a four-year term as president; the PDP won 70 percent of seats in the national legislature and 75 percent of state governorships. The election was marred by what international and domestic observers characterized as massive fraud and serious irregularities, including vote rigging and political violence. Numerous election tribunals, which continued to hear complaints brought by losing parties at all levels, nullified several state and local elections during the

year. In December 2008 the Supreme Court rejected the appeals of two major opposition presidential candidates, upholding the election of President Yar'Adua. While civilian authorities generally maintained effective control of the security forces, there were numerous instances in which elements of the security forces acted outside the law.

Human rights problems during the year included the abridgement of citizens' right to change their government; politically motivated and extrajudicial killings by security forces, including summary executions; vigilante killings; abductions by militant groups; torture, rape, and other cruel, inhuman or degrading treatment of prisoners, detainees, and criminal suspects; harsh and life-threatening prison and detention center conditions; arbitrary arrest and prolonged pretrial detention; denial of fair public trial; executive influence on the judiciary and judicial corruption; infringement of privacy rights; restrictions on freedom of speech, press, assembly, religion, and movement; official corruption and impunity; domestic violence and discrimination against women; the killing of children suspected of witchcraft; female genital mutilation (FGM); child abuse and child sexual exploitation; societal violence; ethnic, regional, and religious discrimination; trafficking in persons for the purpose of prostitution and forced labor; discrimination against persons with disabilities; discrimination based on sexual orientation and gender identity; and child labor.

Militant and criminal groups in the Niger Delta were responsible for numerous killings, kidnappings, and injuries, as well as the displacement of thousands of persons; however, lead militant groups accepted the president's offer of an amnesty by the October 4 deadline, after which reports of incidents attributed to these militant groups decreased, although violence remained pervasive in the south.

From July 26 to 29, violent clashes erupted in four northern states after supporters of Boko Haram ("western education is sin"), an Islamic extremist group, launched a four-state assault on police stations and other government facilities. In quelling the uprising, security forces committed serious human rights abuses, including executions, extrajudicial killings, and widespread and indiscriminate arrests.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents were responsible for numerous extrajudicial killings, including politically motivated killings of leaders of Boko Haram, an extremist Islamic group.

During the year the Joint Task Force (JTF), a unit formed in 2003 to restore stability in the Niger Delta and composed of elements of the military, police, and security services, conducted raids on militant groups and criminal suspects in the Niger Delta, resulting in numerous deaths and injuries. Credible reports also indicated that military personnel and paramilitary mobile police carried out summary executions, assaults, and other abuses across the Niger Delta (see section 1.g.).

From July 26 to 29, violent clashes between police and militant members of Boko Haram in four northern states resulted in more than 700 deaths; quick burials in mass graves precluded an accurate accounting of the dead. There were numerous injuries, and the Red Cross estimated that approximately 4,000 persons were displaced. The conflict began on July 26, in Bauchi, when approximately 70 members of Boko Haram attacked a police station with grenades and guns in retaliation for the mid-June arrest of several of the group's leaders and the injuring of group members. During the nights of July 27 and 28, the group attacked police stations and government buildings in Maiduguri, Borno state. Police and soldiers counter-attacked, and the violence quickly spread to Potiskum in Yobe state and Wudil in Kano state. There were reports of summary executions, use of excessive force, and widespread arrests of suspected extremists, many based on little or no evidence. Some sect members allegedly shaved their beards and changed the style of their dress to avoid being identified. Corpses of militants were found at police stations, and there were numerous reports of persons being pulled from cars and summarily shot. According to Amnesty International (AI), on July 30, security forces killed an estimated 200 alleged members of the sect trying to flee Maiduguri. Religious leaders condemned the philosophy and actions of Boko Haram but criticized the government's use of excessive force and its failure to address the social problems, including poverty and lack of education, that they said triggered the violence.

On July 30, after four days of Boko Haram assaults on police and other local government institutions, the military entered Maiduguri, capital of Borno state and headquarters of Boko Haram, where soldiers located and arrested sect leader Muhammad Yusuf. Credible media reports claimed that police executed Yusuf, whose

bruised body was subsequently seen at state police headquarters with multiple bullet wounds. While police initially admitted killing Yusuf in custody, they subsequently claimed he was killed trying to escape. Yusuf's father-in-law, Baba Mohammed, and Buji Fai, a former state government official suspected of funding Boko Haram, were also reportedly killed in custody. On August 4, President Yar'Adua pledged to conduct a full investigation of the Boko Haram uprising, including the circumstances surrounding Yusuf's death; however, there was no public release of the investigation by year's end.

On December 29, in the northern state of Bauchi, a clash between members of the Islamic sect Kala-Kato, town residents, and security forces resulted in approximately 40 deaths, including children, in fighting that lasted approximately three hours. The conflict started when residents complained to police about aggressive open-air preaching against other Muslim groups. Police arrested 20 persons, including children, for allegedly fighting and burning homes. Police claimed they had killed sect leader Mallam Badamasi and recovered "bomb-making tools and explosives." Civil society groups reportedly were trying to locate family members of the 23 children orphaned in the clash. In a December 30 statement, the UN Children's Fund (UNICEF) expressed concern for the orphaned children, noting that millions of children in the northern part of the country lived in precarious circumstances, many away from their families.

On December 9, AI published *Killing at Will: Extrajudicial Executions and Other Unlawful Killings by the Police in Nigeria*, which documented 39 cases of security force killings and enforced disappearances and was based on interviews and research conducted between July 2007 and July of this year. According to the report, national police were responsible for hundreds of extrajudicial executions, other unlawful killings, and enforced disappearances each year. Victims were not picked at random and, in a country where "bribes guarantee safety," those who could not afford to pay were at risk of being shot or tortured to death. The majority of cases were neither investigated nor perpetrators punished. When investigations did occur, they did not comply with international standards, and officers suspected of extrajudicial executions were generally sent on training or transferred to other states instead of being prosecuted. Police often claimed that the victim was an armed robber killed in an exchange of gunfire or while trying to escape police custody. AI charged that Police Force Order 237, which permits officers to shoot suspects and detainees who attempt to escape or avoid arrest, "lets the police get away with murder."

National police, army, and other security forces committed extrajudicial killings and used lethal and excessive force to apprehend criminals and suspects. According to AI, the government executed detainees in custody, suspected armed robbers under arrest, persons who refused to pay bribes, or persons stopped during road checks. While not confirming the report, Parry Osayande, the retired police deputy inspector general in Nasarawa state, told reporters that police killed hundreds of detainees annually, which he blamed on lack of training and inadequate funding.

On January 25, the Ovie of Ozoro, a traditional ruler, and several of his supporters attacked Eugene Ebiri, an individual with mental disabilities who lived in Isoko North Local Government Area, Delta state. Ebiri, whose offense reportedly was to have sat on the Ovie's throne, subsequently died, according to the Network on Police Reform in Nigeria, a network of 39 civil society organizations dedicated to police reform and accountability. Ebiri's body was taken to a mortuary, where it was located later by the family after police authorities refused to provide any information on the death. No action had been taken against the perpetrators by year's end.

On April 15, police in Mowe, Ogun state, indiscriminately fired into the home of Patrick Akama, who had called police because his home was being burgled. Akama died instantly.

On December 1, at Ado-Awaye, Oyo state, two police officers stopped 15 youths traveling by motorcycle, fired into the air to frighten them and then shot and killed one of the youths. One officer was arrested; the other officer fled the scene, was dismissed in his absence, and remained at large at year's end.

On October 27, the district coroner absolved police of any involvement in the August 2008 killing in Lagos of journalist Abayomi Ogundeji and ruled that armed thieves were responsible. Police also claimed Ogundeji had been killed by thieves, but a coroner's inquest in July implicated police in the killing after eyewitness accounts described the victim's unwillingness to get out of his car at a police roadblock. One of the eyewitnesses was shot and killed a few days before the inquest. The district coroner, however, accused police of failing to conduct a proper investigation.

During the year authorities charged a police officer with responsibility in the October 2008 death of bank manager Modebayo Awosika, who was shot in the head for failing to stop after his car collided with a police vehicle. On April 24, however, the trial was adjourned indefinitely to search for the other police officer involved in the killing.

No action taken against the four police officers from Ede, Osun state, who in October 2008 beat to death Misitura Ademola following her arrest for theft; or the police officers in Oshogbo, Osun state, who in October 2008 beat to death Dauda Najeem while attempting to extract a confession of theft.

Authorities did not hold police accountable for the use of excessive or deadly force or for the deaths of persons in custody. Police generally operated with impunity in the apprehension, illegal detention, and sometimes execution of criminal suspects. The reports of state or federal panels of inquiry investigating suspicious deaths were not published.

According to the December AI report, police officers from the Ketu Anti-Robbery Squad arrested persons attending a December 2008 community party and released only those who could pay a fine. One of the detainees unable to pay died after being beaten with an iron bar and rifle butt.

In April, after receiving a second petition from the Osun State Civil Societies Coalition against Corruption and Rights Violations, a team of police investigators visited Oshogbo to examine three extrajudicial killings that occurred in 2008 and seven, which occurred in prior years. The investigators had not released a report on their findings by year's end, despite multiple petitions.

A panel, established by Plateau state to investigate the November 2008 security force killings of approximately 700 civilians in the Jos North local government area, attributed the violence to provocation by religious leaders as well as violence by political parties and local government officials; however, the panel's full report had not been released by year's end, and no one had been charged or punished for any of the killings. A second panel called by the president to investigate the incident began public hearings the week of December 14.

No investigation was conducted into the February 2008 police killings of more than 50 persons in Ogaminana, Kogi state; police reportedly attacked the village in reprisal for the killing of a colleague by local youths.

Police use of excessive force, including live ammunition, to disperse demonstrators resulted in numerous killings during the year (see section 1.g.).

There were no developments in the following 2008 police killings of demonstrators: the January shooting deaths of three youths in Okeagbe, Ondo state and the January killings of four demonstrators in Kaduna state.

Violence and lethal force at unauthorized police and military roadblocks and checkpoints continued during the year, despite numerous announcements by the police inspector general that independent police roadblocks would be eliminated and offenders punished. According to AI's December report, commercial drivers were often stopped and asked to pay a bribe, the amount of which was determined by the weight of the vehicle. Police shot drivers who refused to pay and also shot them when there was a disagreement about the price or when it was unclear whether a bribe had been paid.

Bystanders sometimes were shot by mistake. For example, on April 5, a two-year-old girl was accidentally shot at a checkpoint in Lagos.

On May 15, at a checkpoint in Emene, Enugu state, police shot Aneke Okorie, who later died on his way to the hospital. An eyewitness told AI that a police officer shot Okorie in the stomach and then hung his gun around Okorie's neck to suggest that the officer had been attacked by an armed robber. When radio reports in Enugu state claimed that police had killed an armed robber, the eyewitness and community leaders wrote a petition to the Inspector General of Police stating that Okorie was innocent and asking for the perpetrators to be brought to justice. The three police officers involved in the shooting were arrested; one was dismissed from the police and awaited trial at year's end.

On September 3, in Festac, Lagos state, five police officers stopped the car of Lagos State University student Michael Egwu at a checkpoint and demanded documentation, which Egwu produced. According to eyewitnesses, the officers subsequently demanded money, and an argument ensued, during which one of the police officers shot and killed Egwu. News reports claimed an officer was in custody over the incident, but there was no confirmation by year's end.

On November 7, a 70-year-old man on the way home from the wedding of his son died after being shot in the head at a police checkpoint in Osogbo, Osun state; the man had refused to pay a 20 naira (13 cent) bribe. According to news reports, fellow officers removed the police officer, who was drunk, from the scene.

Despite police pledges to fully disclose details of the prosecution into the October 2008 shooting death of Gabriel Mordi at a checkpoint in Agbor, Delta state, police officers responsible for the killing were quietly redeployed to other locations during the year.

Police and military personnel used excessive and sometimes deadly force to quell civil unrest, property vandalism, and interethnic violence.

For example, on October 19, in Biu, Borno state, two of 100 motorcycle riders protesting the enforcement of required crash helmets were killed during a confrontation with police; several riders also were injured. A mob retaliated by burning Biu government offices.

The torturing and killing of children accused of witchcraft resulted in numerous deaths during the year (see section 6).

Killings carried out by organized gangs of armed robbers remained common during the year. In many regions, groups of street youths, known as "area boys," operated illegal highway checkpoints at which they demanded money from motorists.

Ethnic violence, often triggered by disputes between farmers and herders, resulted in deaths and displacement during the year.

For example, in June Fulani nomadic herders in Plateau state killed an ethnic Chala farmer, whose relatives retaliated the following day by killing three herders. Conflicts were exacerbated by drought in the north, since many Fulani nomads had moved south to maintain their herds.

On April 27, government authorities expelled an estimated 2,000 Fulani nomads from Wase, Plateau state, after disputes over grazing their cattle on farm lands; in May another 700 nomads were also expelled from Borno state. Ahmed Idris, a congressman from Plateau state, charged that the expulsions of Fulani herders violated the constitution and were an attempt to conduct "ethnic cleansing." The land disputes occurred over traditional grazing rights given by local governments to farmers over the years, leaving no place for the Fulani to graze their herds.

On December 18, at least 30 persons were killed in fighting between farmers and cattle herders in central Nasarawa state, when armed herders raided the farm village of Udeni Gida; a similar clash two weeks earlier occurred after herders led their cattle into rice fields.

There continued to be reports of street mobs killing suspected criminals during the year. There were no arrests reported from these mob actions and no developments in cases from previous years.

b. Disappearance.—There were increased abductions of civilians by militant and criminal groups in connection with the conflict in the Niger Delta, particularly in Port Harcourt (see section 1.g.).

There was also a dramatic increase in abductions, some of which may have been politically motivated, in other parts of the country. In the first six months of the year, more than 500 persons reportedly had been abducted, 10 of whom were subsequently killed; 353 were reported as abducted in 2008.

While kidnappings for ransom were a common occurrence in the south, none had occurred during the year in the northern part of the country until April 16, when armed men abducted one of five Canadian citizens in the country on a Rotary exchange program. The gunmen demanded a ransom of 20.5 million naira (\$136,000); however, the victim was released two weeks later, with no public confirmation of a ransom payment.

On March 12, in Benin City, the capital of Edo state, four gunmen abducted seven-year-old Etiosa Aghobahi, the son of the chairman of Ovia South West local government area of Edo state. After three days and payment of ransom, the boy was released unharmed. Edo police reported that 14 persons were arrested on kidnapping charges; none had been prosecuted by year's end.

On August 7, armed men abducted two Kogi state council chairmen, killed three police officers, and critically injured three others; the incident occurred while the councilmen were in Kabba for their monthly forum. Eyewitnesses described police vehicles carrying the armed men to the scene.

On September 21, 10 unidentified men dressed in military camouflage uniforms abducted Waje Yayok, secretary to the government of Kaduna state, and released him nine days later. Yayok's family reported that the kidnappers demanded a ransom of 40 million naira (\$265,000). It was unclear whether the ransom was paid or the kidnapping was politically motivated.

On October 23, in what was widely believed to be a politically motivated act, unidentified persons kidnapped the 78-year-old father of Chukwuma Soludo, the PDP candidate for governor of Anambra State and former governor of the Central Bank of Nigeria. The victim was released unhurt after 10 days; there were reports of payment of a significantly lower ransom than originally demanded.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—JTF use of excessive force during raids on militant groups and criminal suspects in the Niger Delta resulted in deaths, injuries, mass rape, displacement of civilians, and other abuses in the Delta region (see section 1.g.).

Although the constitution and law prohibit such practices and provide for punishment of such abuses, torture is not criminalized, and security services personnel, including police, military, and State Security Service (SSS) officers, regularly tortured, beat, and abused demonstrators, criminal suspects, detainees, and convicted prisoners. Police mistreated civilians to extort money. The law prohibits the introduction into trials of evidence and confessions obtained through torture; however, police often used torture to extract confessions.

Citing the nongovernmental organization (NGO) Social Justice and Advocacy Initiative, the December AI report noted that “intimidation, torture, and extortion of detainees are entrenched practices in the Nigerian criminal justice system.” The National Human Rights Commission (NHRC) claimed that “most cases in court are prosecuted by the police based on confessions obtained under circumstances of torture.” In May the NHRC and the Legal Research Initiative established a center to create a database on acts of torture by law enforcement agencies.

In 2007 the UN special rapporteur on torture visited the country at the government’s invitation to assess reports of official abuse. On the basis of discussions with detainees, visits to prisons and police stations, and forensic medical evidence collected over a one-week period, the rapporteur reported that torture was endemic in law enforcement operations, including police custody, and was often used to extract alleged confessions. According to his report, methods of torture included flogging a suspect with whips; beating a suspect with batons and machetes; shooting a suspect in the foot; threatening a suspect with death and then shooting him with powder cartridges; suspending a suspect from the ceiling; and denying a suspect food, water, and medical treatment.

In 2007 the local NGO Network on Police Reform in Nigeria stated that it had monitored 400 police stations in 13 states for a year and found that killings, torture, extortion, and rape had become routine because authorities shielded police officers from the law.

On August 18, the Economic and Financial Crimes Commission (EFCC) arrested and detained without charge student leader Abdulahi Ebiloma. In July Ebiloma had asked to meet with the education minister to discuss the teachers’ strike and the removal of the minister of education; the education minister had rejected his request. During his 78-day detention, Ebiloma was beaten, shocked with electrodes attached to his torso, and not allowed to confer with an attorney. On October 3, he was released without explanation.

Police and military use of excessive force in quelling the late July uprising in Boko Haram communities resulted in numerous deaths and injuries (see section 1.a.).

Police occasionally beat children. For example, on July 3, police in Iket, Akwa Ibom, entered a shelter that held 150 children accused of witchcraft. When the children tried to prevent the arrest of staff members, police beat them, rendering two girls unconscious.

Security forces beat journalists during the year (see section 2.a.).

No investigation was conducted into the July 2008 beating by police of Baba Mohammad, who subsequently lapsed into a coma; there also were no developments in the November 2008 beating by navy officers of Uzoma Okere.

There were credible reports during the year that security forces committed rape and other forms of sexual violence against women and girls with impunity. Police officials acknowledged that rape was a problem. AI reported that women frequently were raped while in detention but did not report the abuse because of the social stigma attached to rape and the fact that police officers were the perpetrators. In July 2008 the NHRC reported a sharp increase in reported cases of rape and sexual abuse, particularly of minors and women in prisons and detention centers.

Varying Shari’a penal codes were in place in 12 northern states, and Shari’a courts delivered “hadd” sentences, for example caning, for minor offenses such as petty theft, public consumption of alcohol, and prostitution; it was unknown if any of the sentences were carried out by year’s end. States did not carry out any death sentences (stoning) pronounced in prior years for adultery. There were numerous Shari’a cases from previous years pending appeal or implementation of sentence, including pending amputation and stoning sentences in Jigawa, Bauchi, Niger, Kano, and Zamfara states. To date the only amputation sentence carried out involved a victim who refused to appeal his conviction.

Statutory law mandates that state governors either impose a stay or implement amputation or death sentences. Sentences under Shari’a often were not carried out

because of the lengthy process for appeals. Because no relevant case had been appealed to the federal level, federal appellate courts had yet to decide whether such punishments violate the constitution. Courts consistently overturned stoning and amputation sentences on procedural or evidentiary grounds, but the sentences had not been challenged on constitutional grounds. Caning is also a punishment under common law in the Northern Region penal code and had not been challenged in the courts as a violation of statutory law. In some cases, convicted persons were allowed to pay a fine or go to jail instead of being caned. Shari'a courts usually carried out caning immediately, while the Shari'a criminal procedure code allows defendants 30 days to appeal sentences involving mutilation or death. Appeals often took months or years to decide.

Ethnic or communal clashes resulted in deaths and injuries during the year (see section 1.a.).

Prison and Detention Center Conditions.—Prison and detention conditions remained harsh and life threatening. Most of the country's 227 prisons were 70 to 80 years old and lacked basic facilities. Lack of potable water, inadequate sewage facilities, and severe overcrowding resulted in dangerous and unsanitary conditions. In 2007 the UN special rapporteur on torture reported that those awaiting trial suffered more than those already convicted due to lack of funding for their care, and that inadequate medical treatment caused many prisoners to die of treatable illnesses. On October 12, Jerry Manwe, the chairman of the House Committee on the Interior, made a surprise visit to the Kaduna State Prison, after which he called conditions "deplorable" and criticized the lack of facilities. The deputy comptroller of prisons responded that the prisons lacked safe water, electricity, and basic infrastructure.

The country also operated 86 satellite prisons, 11 farm centers, eight zonal offices, and six directorates, all of which held prisoners and detainees. Conditions in these facilities were no better than in the other prisons.

Disease was pervasive in cramped, poorly ventilated prison facilities, and chronic shortages of medical supplies were reported. HIV/AIDS, malaria, and tuberculosis were of particular concern. Only those with money or whose relatives brought food regularly had sufficient food; prison officials routinely stole money provided for food for prisoners. Poor inmates often relied on handouts from others to survive. Many inmates lacked beds or mattresses, forcing them to sleep on concrete floors, often without blankets. Prison officials, police, and other security forces often denied inmates food and medical treatment as punishment or to extort money.

Following a 2007 visit to 10 prisons in the states of Enugu, Kano, Lagos, and the Federal Capital Territory (FCT), AI issued a report citing appalling prison conditions, noting that many prisoners were considered "forgotten inmates" because they had been incarcerated for years without trial.

In 2007 the UN special rapporteur on torture also reported appalling conditions in detention centers, noting crowded and unsanitary cells, exacerbated by insufficient food, clean water, and medical care. The rapporteur noted, however, that conditions for female detainees were much better than those for males.

Inmates died from harsh conditions and denial of proper medical treatment during the year; however, an accurate count was not available from prison authorities.

The country's prisons held an estimated 42,000 inmates; reliable data was not available on the number of persons held in the 86 satellite facilities. Prisons held up to 250 percent of their designed capacity. For example, prisons in Lagos had a capacity of 2,905 prisoners but held more than 4,000. Makurdi prison in Benue state, with a capacity for 240 prisoners, housed 456, while Ado-Ekiti prison in Ekiti state, with a capacity for 200 prisoners, held 290 as of November. The federal prison in Enugu, built to house 400 inmates, held more than 1,000. There were approximately 630 female and 840 juvenile inmates in the country's prisons and detention facilities.

Authorities sometimes held female and male prisoners together, especially in rural areas, and prisons had no facilities to care for pregnant women or nursing mothers.

Although the law precludes the imprisonment of children, Justice Minister Aondoakaa acknowledged in 2008 the presence of more than 300 children in the country's prisons, many of whom had been born there. Despite a government order to identify and release such children and their mothers, the problem had not been solved by year's end. In November 2008 the Committee for the Defense of Human Rights, a coalition of human rights organizations, reported the imprisonment of 97 juveniles with adults in Port Harcourt, Rivers state. Authorities had taken no action to remove juveniles from these prisons by year's end.

Prisoners with mental disabilities were incarcerated with the general prison population, and no mental health care was provided.

Until 2008 the government allowed AI, Prisoners Rehabilitation and Welfare Action (PRAWA), and other NGOs regular access to prisons. After an unflattering report in 2007, AI no longer had unrestricted access to prisoners. During the year the government allowed only PRAWA to conduct regular prison visits.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention; however, police and security forces continued to employ these practices. The JTF arbitrarily arrested hundreds of persons during the year during sweeps for militants.

Role of the Police and Security Apparatus.—The Nigeria Police Force (NPF) is under the inspector general of police, who is appointed by the president and responsible for law enforcement operations. An assistant inspector general commanded each NPF state unit. The constitution prohibits state- and local-level governments from organizing their own police forces; however, state governors may direct federal police for local emergency actions. The SSS is responsible for internal security and reports to the president through the national security advisor. Due to police inability to control societal violence, the government continued to rely on the army in some cases.

The NPF committed human rights abuses and generally operated with impunity in the apprehension, illegal detention, and sometimes execution of criminal suspects. The SSS also committed human rights abuses, particularly in restricting freedom of speech and press.

According to AI's December report, only a fragment of the NPF annual budget reached state and local police stations, and the lack of funding contributed to many police failures. Officers worked without basic equipment and sometimes made crime victims pay for gasoline and stationery necessary to conduct an investigation.

Such lack of resources contributed to corruption, which remained rampant, particularly at highway checkpoints. Police routinely stopped drivers who had committed no traffic infractions, refusing to allow them to continue until they paid bribes. The police inspector general attempted to strengthen the Police Monitoring Unit, which was charged with visiting police stations to search officers for signs of accepting bribes; however, the unit was ineffective and had made no arrests by year's end. Citizens could report incidents of police corruption to the NHRC; however, it had no power to act on such complaints, and no other mechanism was available to investigate security force abuse. In its December report, AI noted that families of victims often could not pay for a lawyer, afford court fees, or even pay to retrieve a body.

Police use of alcohol while on duty reportedly contributed to abuses. For example, on November 28, in Effurun, Delta state, a police officer drinking in a local business opened fire, injuring the owner and a customer. On November 17, a foreign diplomat visiting police headquarters in Makurdi, Benue state, was threatened by a drunken police officer in full view of dozens of police officers, who did not intervene.

Arrest Procedures and Treatment While in Detention.—Police and security forces were empowered to arrest without warrant, based on reasonable suspicion that a person had committed an offense, a power they often abused. By law police may detain persons for 48 hours before charging them with an offense. The law requires an arresting officer to inform the accused of charges at the time of arrest, to transport the accused to a police station for processing within a reasonable time, and to allow suspects to engage counsel and post bail. However, suspects were routinely detained without being informed of charges and denied access to counsel and family members. Provision of bail was often arbitrary or subject to extrajudicial influence. Conditions of bail set by judges often were too stringent to be met. In many areas there was no functioning bail system, so suspects were incarcerated indefinitely in investigative detention within the prison system. Detainees often were kept incommunicado for long periods. Numerous detainees alleged that police demanded bribes before they were taken to court to have their cases heard. If family members wanted to attend a trial, police often demanded additional payment.

Persons who happened to be in the vicinity of a crime reportedly were held for interrogation for periods ranging from a few hours to several months. After their release, they frequently were asked to return for further questioning.

Security forces arbitrarily arrested numerous persons during the year. During the July fighting between security forces and militant members of the Islamic extremist group Boko Haram, hundreds of persons in Bauchi, Yobe, Kano, and Borno states were arrested, many based on little or no evidence of involvement (see section 1.a.). Bystanders were released within a few days; however, as of September 21, 58 persons were being held without bail.

In August police arrested approximately 4,000 members of Darul Islam, an Islamic sect, and detained them for questioning before deporting them to their states of origin (see section 2.c.).

The Eagle Squad, a special security force sponsored by the commissioner of police in Osun state, continued to arbitrarily arrest citizens and civil society leaders (see section 4.).

Security forces detained journalists and demonstrators during the year (see sections 2.a. and 2.b.).

The EFCC reportedly singled out political opponents in its arrests and detentions of state, local, and federal government officials on corruption charges during the year (see sections 1.c. and 4.).

Most of the 78 members of the Movement for the Actualization of the Sovereign State of Biafra (MASSOB) who were arrested in June 2008 for conspiracy to commit a felony were released during the year; however, members without influence or money to bribe authorities remained in detention. The members were arrested during a commemoration of the Nigerian civil war era secessionist state of Biafra and charged with intent to stage a protest.

Lengthy pretrial detention remained a serious problem, and human rights groups reported that detainees awaiting trial constituted 65 percent of the prison population, with some awaiting trial more than 10 years. At year's end there were 27,000 pretrial detainees in the country's prisons, who constituted 65 percent of the prison population. Serious trial backlogs, endemic corruption, and undue political influence continued to hamper the judicial system. Multiple adjournments in some cases resulted in serious delays. Many detainees were denied trials because police lacked vehicles to transport them to court on their trial dates. In Makurdi prison, where 78 percent of prisoners were awaiting trial, pretrial detainees held a protest in November because so many were unable to make their court dates due to lack of transportation.

The NHRC reported that some detainees were held because authorities had lost their case files. Some state governments released inmates already detained for longer than the potential maximum sentence if they had been convicted. Although detainees had the right to submit complaints to the NHRC, the commission had no power to respond. Detainees could try to complain to the courts but often found this approach impossible. Even detainees with legal representation often waited years to gain access to the courts. Since prison budgets did not allot funds for pretrial detainees, conditions were worse than those for convicted prisoners.

Amnesty.—In August Lagos state Governor Babatunde Fashola granted amnesty to three death row inmates; the sentences of 29 death row inmates were commuted to life in prison, and eight others were commuted to various jail terms. The governor said he wanted to give the prisoners “hope of changing their behaviors and being rehabilitated into society.”

e. Denial of Fair Public Trial.—Although the constitution and law provide for an independent judiciary, the judicial branch remained susceptible to executive and legislative branch pressure. Political leaders influenced the judiciary, particularly at the state and local levels. Understaffing, underfunding, inefficiency, and corruption continued to prevent the judiciary from functioning adequately. Judges frequently failed to appear for trials, often because they were pursuing other sources of income and sometimes because of threats against them. In addition, court officials often lacked the proper equipment, training, and motivation to perform their duties, with lack of motivation primarily due to inadequate compensation. During the year Supreme Court judges called for a more independent judiciary.

The Ministry of Justice implemented strict requirements for education and length of service for judges at the federal and state level; however, there were no requirements or monitoring bodies for judges at the local level, which resulted in corruption and miscarriages of justice in those courts.

The regular court system consists of federal and state trial courts, state appeals courts, the Federal Court of Appeal, and the Supreme Court.

Military courts tried military personnel only.

Shari'a and customary (traditional) courts of appeal function in 12 states that use Shari'a for civil or criminal law, including a customary court in the FCT. Courts of first instance include magistrate or district courts, customary or traditional courts, Shari'a courts, and, in some specified cases, the state high courts. The constitution also provides that the government establish a federal Shari'a Court of Appeal and Final Court of Appeal, but these courts had not been established by year's end.

The constitution provides that states may establish courts based on common law or customary law systems. The law also provides that states may elect to use the Shari'a penal code in the courts. While Shari'a courts had been in operation

throughout the north for centuries, in 2000 Shari'a courts were empowered to also hear criminal cases and pass sentences based on the Shari'a penal code, which outlines hadd offenses and punishments, including caning, death by stoning, and amputation.

The nature of a case usually determined which court had jurisdiction. The return to the Shari'a courts stemmed at least in part from inefficiency and corruption in the regular court system.

Defendants have the right to challenge the constitutionality of Shari'a criminal statutes through the common law appellate courts; however, no challenges with adequate legal standing reached the common law appellate system. The highest appellate court for Shari'a remained the Supreme Court, staffed by common law judges who were not required to have any formal training in the Shari'a penal code.

Trial Procedures.—The constitution provides for public trials in the regular court system and individual rights in criminal and civil cases. The law does not provide for juries. A defendant is presumed innocent and has the right to be present, confront witnesses, present evidence and witnesses, be represented by legal counsel, and have access to government-held evidence; however, these rights were not always respected. Although an accused person is entitled to counsel of his choice, there is no law preventing a trial from going forward without counsel, except for certain offenses for which the penalty is death. The Legal Aid Act provides for the appointment of counsel in such cases and stipulates that a trial should not go forward without it. Defendants have the right of appeal.

In both common law and Shari'a courts, indigent persons without representation were more likely to have their sentences carried out immediately upon being sentenced, although all convicted persons have the right to appeal. The federal government instituted a panel of legal scholars in 2003 to draft a uniform Shari'a penal code to replace divergent Shari'a codes adopted by various northern states; however, the panel did not produce a report, and states continued to apply their individual codes.

There were no legal provisions in common law barring women or other groups from testifying in civil or criminal proceedings or giving their testimony less weight, but the testimony of women and non-Muslims usually was accorded less weight in Shari'a courts. Some "qadis" (Shari'a court judges) allowed separate evidentiary requirements to prove adultery or fornication for male and female defendants. For women pregnancy was deemed permissible evidence in some Shari'a courts. By contrast men could only be convicted by confessing to the crime or if there was eyewitness testimony. However, Shari'a courts provided women with some benefits, including increased access to divorce, child custody, and alimony, because it was significantly easier, faster, and cheaper to get an audience in a Shari'a court than a common law court.

There was a lack of due process in numerous trials during the year. For example, on April 28, the army convicted 27 enlisted soldiers who had served as UN peacekeepers of mutiny and sentenced them to life in prison; the soldiers had protested after officers had stolen their stipend during deployment. After the case garnered international media attention, prison guards took reprisals against the jailed soldiers. In August the army reduced the sentences of the 27 to seven years. Meanwhile, the army found the officers guilty of theft and reassigned or forced them to retire; however, none received a prison sentence.

There were no developments in the trial of MASSOB leader Ralph Uwazurike and 10 others accused of treason in 2005; all of the accused remained free on bail.

On July 11, the trial of Hamza Al Mustapha and his four codefendants resumed; subsequent defense procedural filings resulted in another court adjournment. The five defendants, who were arrested in 2001 on treason charges for alleged assassination attempts on former president Obasanjo and other prominent prodemocracy activists, remained in prison at year's end. Al Mustapha, an army intelligence officer on the staff of late military leader Abacha, still had not been allowed to retrieve personal papers and evidence that he claimed would exonerate him.

Political Prisoners and Detainees.—There were no reports of political prisoners or detainees; however, persons arrested in previous years for alleged treason remained in detention at year's end.

Civil Judicial Procedures and Remedies.—The constitution and law provide for an independent judiciary in civil matters. However, the executive and the legislature exerted undue influence and pressure in civil cases. Official corruption and lack of will to implement court decisions also interfered with due process. The law provides for access to the courts for redress of grievances, and courts can award damages and issue injunctions to stop or prevent a human rights violation. However, the decisions of civil courts were extremely difficult to enforce.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law prohibits such actions, but authorities infringed on these rights during the year, and police raided homes without warrants.

The Federal Capital Development Authority (FCDA) continued to demolish homes and businesses illegally in the FCT that allegedly did not comply with the city's master plan. The government typically claimed that demolished homes or offices lacked proper permits, even if owners were able to produce paperwork indicating the structures were built legally. There was no transparent legal process for deciding which homes would be demolished, and persons who had their homes destroyed had no recourse to appeal and received no compensation. According to the Swiss-based Center on Housing Rights and Evictions, authorities have demolished more than 800,000 homes in the Abuja area since 2003. There was widespread opinion that the demolitions were primarily motivated by corruption and discrimination based on socioeconomic class, since mostly lower- and middle-class persons lost their homes and property, which, once vacated, were sold to wealthy persons with connections to government officials.

In July a Lagos state government special task force demolished hundreds of homes and buildings along the route of the Lagos-Badagry highway to make way for a major road expansion project. Authorities warned that only home owners able to provide genuine title documents would be compensated and denied the claims of many homeowners, alleging fraud.

The government also destroyed the homes of suspected opponents. For example, in January the JTF expanded its operations beyond the Niger Delta to raze 10 villages of the Abala community in Abia state. Residents were injured, and more than 80 homes were destroyed. The JTF, in conjunction with Abia state vigilante services and police forces, accused residents of sheltering armed robbers. No action was taken against the soldiers and vigilantes.

On April 27, authorities expelled 2,000 Fulani nomads from the Wase Local Government Council in Plateau state after disputes over grazing their cattle on farm lands; in May another 700 nomads were expelled from Borno state (see section 6.).

After the July uprising by Boko Haram, the government of Niger state forcibly relocated 1,200 members of the Darul Islam sect (see section 2.c.).

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—The Niger Delta region is home to one of Africa's largest oil industries, which exported nearly 2 million barrels of crude per day. Particularly since 2006, militant groups have used violence, including kidnapping oil company workers, to demand greater control of the region's resources. Abductions for ransom, armed robberies, gang wars, and fighting connected to the theft of crude oil, known as illegal oil bunkering, continued during the year and contributed to the region's general insecurity and lack of economic vitality.

Criminal gangs, called "cults" in some areas, have copied the methods of more sophisticated militants to amass wealth and power, including kidnapping. In a new trend, kidnappings targeted citizens of modest means—including businessmen, doctors, teachers, and priests—as well as expatriates. Gangs extended their reach beyond the core Niger Delta states, where they originated as politically sponsored thugs to intimidate opponents and aid election rigging. Kidnappings, perpetrated primarily for ransom, occurred all across the country, including in the north. Power struggles between gangs resulted in hundreds of deaths in the previous two years, including of civilian bystanders, and resulted in extensive property damage.

On June 25, the government announced a general and unconditional amnesty for militants in the Niger Delta, and all major militant groups had accepted the offer by the October 4 deadline. Early reports indicated the amnesty program resulted in a significant decline in militant violence; however, some observers were skeptical that the militants had surrendered all of their weapons.

Killings.—The JTF was responsible for numerous killings during the year, but no investigations were conducted.

For example, on February 22, the JTF reportedly killed 10 persons during an attack on a Rivers State community.

On August 26, soldiers shot and killed Clement Nwode in Abakaliki, Ebonyi state, claiming he was a militant involved in the Ezza-Ezillo community clashes in the state.

On October 12, in the Bundu waterfront neighborhood of Port Harcourt, JTF troops used firearms to disperse a crowd demonstrating against a planned demolition; three persons were killed, and 11 were injured. According to eyewitness accounts, two armored vehicles drove into the crowd, and several soldiers fired directly into the crowd. Security forces arrested 23 demonstrators, who were charged with

conspiracy, breaching the peace, and destruction of public property; all 23 remained in prison without charge at year's end.

There were no developments in the following 2008 JTF killings in the Niger Delta: the March killing of four men near Isaka in the Okrika Local Government Area, Rivers state; and the July killing of 12 suspected militants in Bayelsa and Rivers states. There also were no developments in the following 2008 deaths that resulted from clashes between the JTF and armed militants: the August deaths of 35 persons in Bayelsa, Delta, and Rivers states; and the September deaths of an estimated 15 to 30 persons in the Elem Tombia and Ogboma communities of Rivers state.

Militants were responsible for numerous killings. For example, on July 1, a gang of unidentified gunmen ambushed a convoy of police and expatriate workers in the city of Aba, Abia state, and killed five police officers as the convoy was escorting workers to their offices at a bottling company. No arrests were made.

On June 1, militants attacked two police officers who were escorting a Scottish oil services worker from Port Harcourt; one of the officers died from his injuries. No arrests were made.

Abductions.—Hostage takings increased during the year. According to the minister of police affairs, there were more reported kidnapping cases in the first seven months of the year than in all of 2008. In the past kidnappers targeted foreign nationals, but an increasing number of citizens, including women and children, were being abducted. Police reported that most kidnappings involved the complicity of persons close to the victim's family, including relatives.

In some areas tensions remained high between oil-producing communities and oil company employees and contractors.

Some kidnappings were perpetrated by militant groups trying to force the government to develop local economies, increase local control of oil revenues, or release prisoners; others were conducted for ransom. Oil facility guards and JTF soldiers were among those killed in these incidents. During the year criminals continued to kidnap the relatives (usually children or mothers) of prominent state politicians for ransom or to force payment for services, such as protection details and voter intimidation during elections.

On January 5, unknown persons abducted Chief Nelson Effiong, the house speaker of Akwa Ibom state; he was released unharmed with no official report of ransom paid.

Also on January 5, gunmen hijacked a foreign oil supply vessel and took nine crew members hostage, demanding a ransom of \$25 million. Four days later, all crew members were released safely, with no public report of ransom being paid.

In separate incidents on February 3, criminals kidnapped the wife of a former petroleum minister, an electoral commission member of Rivers state, and an AGIP Oil Nigeria employee. The victims were released safely, with no public report of ransom being paid.

On June 5, in Enugu state, gunmen abducted Uchenna Ani, a UN Development Program (UNDP) employee. On June 10, Ani was released after his family reportedly refused to pay ransom.

Government authorities responded to kidnappings in the Niger Delta by deploying the JTF, which used excessive force and engaged militants and criminals in gun battles. Such battles resulted in deaths and injuries, widespread civilian displacement, destruction of communities and property, and decreased security during the year.

Physical Abuse, Punishment, and Torture.—On January 21, following the razing of 10 villages in Abala, Abia state, the Abia state vigilante forces, local security forces hired by state government, arrested five members of the Abala community and placed them in jails in Umuahia, Aba, and in Owerri, Imo state. Police reportedly beat detainees regularly with the butts of guns and knives. One of the detainees, Ikechukwu Nwagbara, was released after two months, but the location of the remaining four detainees remained unknown at year's end.

On June 24, during another JTF attack in the same area of Abia state, JTF forces raped numerous women and girls. Thousands of residents were displaced, property was destroyed, and refugees in camps were left without adequate food and water. No arrests were made in connection with the attack, which triggered extensive media criticism.

Other Conflict-Related Abuses.—In May and June, the JTF conducted a military offensive against Tom Polo, an ethnic Ijaw and one of the country's most influential and effective militant leaders. Using helicopter gunships, the JTF destroyed Polo's base in Gbaramatu Kingdom, attacked communities suspected of harboring militants, killed and injured numerous persons, and scattered survivors into local creeks. JTF patrol boats closed waterways while searching for militants. Civil society groups and Ijaw leaders reported the destruction of Oporoza, Benikrukru,

Okenroekoko, and two other communities. Tens of thousands of persons were either displaced or lost their livelihoods as a result of the attacks. Critics charged that the attacks reduced security in the area because Polo's followers escaped with their arsenal intact and moved into surrounding communities.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution and law provide for freedom of speech and of the press; however, the government sometimes restricted these rights in practice. Security forces beat, detained, and harassed journalists, sometimes for reporting on sensitive issues such as the president's health. Journalists practiced self-censorship, and local NGOs claimed that newspaper editors and owners did not report some killings and other human rights abuses, due in part to government intimidation.

Government authorities attempted to impede public criticism. For example, on August 18, SSS officers arrested The Guardian newspaper journalist John Nnia Nwodo after a speech in which he urged army officers to "not keep quiet if they see political changes need to be made." No charges were filed, and Nwodo was released after being flown the next day from his home to Abuja for "a routine chat."

A large and vibrant private domestic press frequently criticized the government. Only one national, government-owned daily newspaper was published. State and local governments controlled the majority of print and electronic media, and several state governments owned daily or weekly newspapers. These state-owned publications tended to be poorly produced, had limited circulation, and required large state subsidies. There were 15 privately owned major daily newspapers, six weekly news-magazines, and several sensationalist evening newspapers and tabloid publications.

During the year journalists were killed. For example, on September 20, unknown assailants in Lagos shot and killed Bayo Olu, a journalist with The Guardian, when he opened his front door. The assailants took only his laptop and cell phone, generating speculation that his killing was linked to his work as a journalist. No arrests had been made in the case by year's end.

There were no developments in the following 2008 killings of journalists: the August killing by unknown assailants of Paul Abayomi Ogundeji and the October killing by six unknown assailants of Eiphrain Audu.

Security forces beat journalists. For example, on June 23, in Asaba, Delta state, police assaulted six journalists, seized their identification cards, and prevented them from covering the demolition of several buildings built on government land without official approval (see section 1.f.). On June 29, the international NGO Committee to Protect Journalists urged the inspector general of police to investigate the incident. The inspector general subsequently apologized to the six journalists, and the Ministry of Lands paid to replace a journalist's eyeglasses that were broken during the assault.

Journalists were also attacked by unknown assailants. For example, on January 15, unidentified gunmen broke into the apartment of The Scroll editor Janet Mba; the assailants fled when police, whom Mba had called before the assailants entered the apartment, arrived. Reporters Without Borders described the incident as the latest in a long series of violence, threats, and intimidation against the country's journalists.

There were no developments in the following 2008 attacks on journalists: the August beating by security operatives of a Channels TV cameraman, who attempted to take pictures of a raid on the house of Niger Delta Peoples Volunteer Force leader Asari Dokubo, or the September beating by police officers in Lagos of three journalists for attempting to cover an opposition political rally.

Security forces detained journalists and seized newspapers during the year. For example, on March 24, police in Bayelsa State arrested and detained Akin Orimolade, the Abuja bureau chief of the weekly newspaper National Life, and accused him of publishing a report that defamed Governor Timipre Sylva. Police held Orimolade for one week until Sylva ordered his unconditional release.

On March 25, police detained Olusola Fabiyi, a journalist from the independent newspaper The Punch, alleging that he failed to disclose the source of a story that a PDP governor in a northern state plotted to kill former Lagos governor Ahmed Tinubu. After interrogation police released Fabiyi on bail.

On July 22, police arrested and detained for six hours editor Shaka Momodu of a Lagos-based private newspaper for publishing allegedly defamatory information about a prominent businessman.

On November 18, SSS agents raided the offices of the newspaper Leadership and seized several computers. In November 2008 SSS agents arrested and detained Leadership publisher Sam Nda Isaiah and questioned him for two days about a story reporting that the president was critically ill.

There were no developments in the following 2008 cases of arbitrary arrest: the August arrest without charge of online editor Jonathan Elendu after he published several reports speculating about the president's health; the October arrest of Murtala Muhammad for speculating on the president's health in his online magazine Web site; the November arrests of Daily editor Abdulrazaque Bello Barkindo, Weekend editor Laura Olugbemi, and Weekend's former associate editor Simon Imoboswam for "defamation of character" after the three published articles about the president's health.

There were 19 independently owned, private radio stations. The government owned one radio network with 34 stations.

On May 11, the National Broadcasting Commission (NBC) ordered the closure of a private radio station in Akure, Ondo state, for failure to pay a fine imposed for broadcasting an interview with opposition political leaders; NBC claimed the interview was "capable of inciting people to violence on the eve of an April 24 local election." On May 12, the Ondo state high court ordered NBC to allow the station to resume broadcasting, charging that it had not followed due process.

On September 16, security agents in Owerri, Imo state, detained and beat Wale Oluokun, a Radio Nigeria correspondent, after he reported on youths with visual disabilities who had marched on state offices to protest government neglect. Oluokun said he was taken to the chief security officer, who took off his shoe and beat the reporter, followed by more beatings by subordinates. Oluokun, who was hospitalized and later discharged, claimed this was the second beating he had received from security personnel after a radio report.

There were 14 independently owned private television stations and two privately owned direct-to-home satellite network stations. The government owned one television network, the Nigerian Television Authority, with 96 affiliate stations. The law requires local television stations to limit programming from other countries to 40 percent and restricts foreign content of satellite broadcasting to 20 percent. In 2008 NBC chief executive Yomi Bolarinwa ordered that all local prime-time news broadcasts contain no more than 20 percent foreign content and that international news be broadcast live. The 2004 NBC prohibition of live broadcasts of foreign news and programs remained in force but did not apply to international cable or satellite services.

Because newspapers and television were relatively expensive and literacy levels low, radio remained the most important medium of mass communication and information. The government controlled much of the electronic media through the NBC, which was responsible for monitoring and deregulating broadcast media.

The government suspended television and radio stations during the year. For example, on May 11, the NBC suspended for two weeks the broadcast license of radio station Adaba 88.5 FM, based in Akure, because it not paid an April fine for political reporting that constituted "incitement to violence."

Hamisu Lamido, a filmmaker who was arbitrarily arrested in March 2008 for releasing a film before submitting it to the state censorship board, was released on bail after three months. The attorney general ordered a retrial due to the court's improper handling of the case.

Libel is a civil offense and requires defendants to prove the truth of opinion or value judgment contained in news reports or commentaries or pay penalties. This limited the circumstances in which media defendants could rely on the defense of "fair comment on matters of public interest" and restricted the right to freedom of expression. Penalties for defamation of character included two years' imprisonment with possible fines.

Internet Freedom.—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. However, several Internet news sites critical of the government experienced server problems, which site owners attributed to government interference. Such disruptions usually lasted a few hours.

Individuals and groups could engage in peaceful expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics for 2008, approximately 7 percent of the country's inhabitants used the Internet.

Academic Freedom and Cultural Events.—State governments continued to restrict academic freedom by controlling curriculum at all levels, including mandating religious instruction. Student groups alleged that numerous strikes, inadequate facilities, and the rise of gangs on campuses, particularly in the south, continued to hamper educational progress. During the year academic and nonacademic unions, along with student groups, went on strike for four months before resuming class.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The constitution and law provide for freedom of assembly; however, police prohibited any rally they deemed could result in violence, which effectively precluded antigovernment rallies. In areas that experienced societal violence, police and security forces permitted public meetings and demonstrations on a case-by-case basis.

The government occasionally banned gatherings whose political, ethnic, or religious nature might lead to unrest. Open-air religious services held away from places of worship remained prohibited in many states due to fears that they might heighten interreligious tensions. Kaduna state continued to enforce a ban on processions, rallies, demonstrations, and meetings in public places on a case-by-case basis. The prohibition of all political, cultural, and religious meetings in Plateau state also continued on a case-by-case basis. In January the director general of the Kano Hisbah Board cancelled a planned protest by divorced women, citing concerns over security; he also characterized the idea of street protests as “un-Islamic” and “morally wrong.”

Security forces used excessive force to disperse demonstrators during the year, resulting in numerous deaths and injuries (see section 1.a.).

On March 23, police forcibly dispersed students from the University of Ibadan after they barricaded the entrances to the school to protest the lack of electrical power and water in dormitories; some students received minor injuries as a result.

Freedom of Association.—The constitution and law provide for the right to associate freely with other persons in political parties, trade unions, or special interest organizations, and the government generally respected this right in practice. The constitution and law allow the free formation of political parties. There were 51 parties registered with the Independent National Electoral Commission (INEC) at year’s end.

c. Freedom of Religion.—The constitution provides for freedom of religion, and the government generally respected religious freedom in practice, although local political actors stoked sectarian violence with impunity.

The constitution prohibits state and local governments from giving preferential treatment to a religious or ethnic community; however, states, whether predominantly Christian or Muslim, generally favored the faith practiced by the majority of their residents. Many Christians alleged that the 2000 reintroduction and enforcement of criminal aspects of the Shari’a legal system and the continued use of state resources in 12 northern states to fund construction of mosques, the teaching of qadis (Shari’a court judges), and subsidies for pilgrimages to Mecca amounted to the effective adoption of Islam as a state religion. Moreover, the NGO Civil Liberties Organization contended that establishment of a Ministry of Religious Affairs and creation of a preacher’s council in Zamfara state amounted to adopting Islam as a state religion. However, several states, including northern ones, apportioned funds to finance Christian pilgrimages to Jerusalem, the Sinai, and Rome and to construct churches.

The constitution provides that states may establish courts based on the common law or customary court law systems. Individual northern states had elected to create Shari’a courts alongside common law and customary courts. Many other states, including the central states of Benue and Plateau, had Shari’a appellate courts. In 2000 12 northern states (Sokoto, Kebbi, Niger, Kano, Katsina, Kaduna, Jigawa, Yobe, Bauchi, Borno, Zamfara, and Gombe) reintroduced criminal law aspects of the Shari’a legal system. Before 2000 the courts used the Shari’a system to adjudicate civil matters only. Adherence to Shari’a criminal law remained compulsory for Muslims in some states and optional in others. While the constitution does not permit non-Muslims to consent to Shari’a jurisdiction, in practice non-Muslims possess the option of doing so when the penalty under Shari’a is less severe than under civil law (for example, a fine rather than a prison sentence).

Although several northern states continued to ban public proselytizing to forestall ethnoreligious violence, some Christian proselytizing groups nonetheless remained active. The prohibitions generally were enforced on a case-by-case basis. The constitution does not require students to receive religious instruction in secular public schools. However, state governments occasionally passed laws seeking to incorporate religious studies into the curriculum. NGOs such as the Civil Liberties Organization claimed that the 12 northern states had made Islamic religious education compulsory in previously secular schools. Authorities of several states claimed that schools did not require students to attend classes of religious groups other than their own and that students could request teachers of their own religious beliefs to provide alternative instruction. Nonetheless, there often were no teachers capable of teaching Christianity in northern schools or of teaching Islam in southern schools.

On August 15, following the July uprising by Boko Haram militants across four northern states, Niger state police forces raided the compound of Darul Islam, an Islamic sect. According to state officials, civil society groups, and press reports, police arrested approximately 4,000 persons, detained them for questioning, and searched the compound for weapons. Although no weapons were found, the government forcibly relocated sect members, including children, in an effort to disperse the group before any violence could develop in their isolated village. The government provided no notice and minimal compensation to residents, evicted approximately 1,250 members from their village, and sent them by bus to their states of origin. Another 300 members were deported to Niger after police determined that they lacked proper citizenship documentation. Family members were moved into vacant schools and government buildings in their states of origin, where the lack of sanitation, food, and sleeping facilities resulted in outbreaks of cholera among sequestered groups. Police claimed that the arrests and evictions were intended to preempt the violence that had occurred the previous month in Boko Haram communities and that police had received reports that the community was forcibly holding women and children. However, human rights observers charged that the government violated the constitutional and human rights of thousands of innocent persons.

Following the Boko Haram violence in Maiduguri, the state government suspended some religious services and instructed selected clerics on how to preach without inciting violence. In September the Borno assembly passed a law providing for a censorship board to regulate the preaching licenses for imams.

On January 24, in Port Harcourt, gunmen abducted a Catholic priest from the steps of his church. News media reported he was released under orders of an unnamed militant leader and was returned without ransom payment.

Although the government generally did not restrict distribution of religious publications, it sporadically enforced a prohibition against broadcasting religious notices on state-owned radio and television stations. Private radio stations regularly broadcast religious programming.

Although the expanded jurisdiction of Shari'a did not apply to non-Muslims in civil and criminal proceedings, certain social mores inspired by Shari'a, such as separation of the sexes in public schools, health-care facilities, and public transport services, affected non-Muslim minorities in the north.

Four states with expanded Shari'a laws (Zamfara, Niger, Kaduna, and Kano) authorized enforcement by private groups known as the Hisbah, funded by state governments. In some cases, these groups had authority to make arrests, but they primarily served as traffic wardens and regulated commercial market activity.

Although most Shari'a states did not criminalize alcohol consumption by non-Muslims, Kano state maintained laws providing for steep fines and prison sentences for the distribution and public consumption of alcohol. Despite the prohibition, alcohol remained available in Kano at some hotels and restaurants and in Sabon Gari, where a majority of non-Muslims lived. During the year the governor and state Hisbah restricted importation of alcohol into Sabon Gari by establishing checkpoints and impounding vehicles carrying alcohol.

Hisbah leaders in Kano cited prohibitions of alcohol and prostitution as their primary focus. In April the director general of the Kano Hisbah Board threatened to enter Sabon Gari to confiscate alcohol and crack down on prostitution if the hoteliers did not comply with an agreement to clean up "beer spots and brothels." At year's end hotels in Kano continued to serve alcohol.

In January the Kano Hisbah Board reportedly ordered the Association of Divorcees, Widows, and Orphans to refrain from staging a rally in Kano, calling the rally "un-Islamic"; rally organizers had intended to publicize legislation that would improve the lives of female divorcees. Hisbah leaders claimed they prohibited the rally to prevent conflict following November 2008 violence in Jos, but they agreed to grant the association permission to host radio programs instead.

Societal Abuses and Discrimination.—Violence between Christians and Muslims increased. Political and socioeconomic conflicts often divided persons along religious lines and were expressed in the targeting of religious symbols and spaces. Acute sectarian violence in the Middle Belt heightened tensions between religious groups, even in parts of the country that did not experience the violence. Ethnoreligious violence resulted in numerous deaths and the displacement of thousands of persons throughout the country.

Religious differences often mirrored regional, tribal-ethnic, and occupational differences. For example, in many areas of the Middle Belt, Muslim Fulani tended to be pastoralists, while the Muslim Hausa and Christian Igbo and other ethnic groups tended to be farmers or work in urban areas. Consequently, ethnic, regional, economic, and land use competition often correlated with religious differences between the competing groups.

The law prohibits religious discrimination in employment and other practices. Private businesses, however, frequently discriminated on the basis of religion or ethnicity in hiring practices and purchasing patterns. In nearly all states, ethnic rivalries between “indigenes” and “settlers” resulted in societal discrimination against more recently arrived minority ethnic and religious groups.

A few instances of societal abuse and discrimination occurred against members of Jehovah’s Witnesses, who refused for religious reasons to join local age-grade associations or women’s associations.

No action was taken against police, whose use of lethal force to quell November 2008 ethnoreligious violence in Jos resulted in numerous civilian deaths.

There were no reports of anti-Semitic acts during the year. An estimated 30,000 members of the Jewish community resided in the country and worshipped in 26 synagogues.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation; however, police occasionally restricted freedom of movement by enforcing curfews in areas experiencing ethnoreligious violence and routinely set up roadblocks and checkpoints to extort money from travelers. Security officials continued to use excessive force at checkpoints and roadblocks, which were sometimes maintained every few miles.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers through the National Commission for Refugees, its federal commissioner, and the National Emergency Management Agency. The Eligibility Committee, on which the UNHCR has observer status, governed the granting of refugee status, asylum, and resettlement, and it also reviewed refugee resettlement.

During the year state officials imposed dusk-to-dawn curfews in response to sectarian conflicts. For example, curfews were imposed from February 21 to March 7 in Bauchi, after churches and a mosque were burned and more than 1,000 persons were displaced, and on December 2, in Oyo state, when rival youth gangs started to fire weapons injuring approximately 50 youths. In late July the government imposed curfews in the northern towns of Bauchi, Maiduguri, Potiskum, and Wudil as a result of fighting between security forces and Boko Haram militants (see section 1.a.)

The FCDA continued to demolish homes, businesses, and churches in the FCT illegally, which left numerous persons homeless. During the year authorities in Port Harcourt forcibly displaced residents on the Bundu waterfront in an area slated for redevelopment, an action that left thousands of residents homeless.

Since 2001 the government repatriated 2,557 Liberian refugees during the UNHCR’s voluntary return program that ended in April.

Internally Displaced Persons.—There were an estimated 80,000 internally displaced persons in the country.

After the July uprising by Boko Haram, the government of Niger state forcibly relocated 1,200 members of the Darul Islam sect (see section 2.c.).

Ethnic disputes over land and political power along the borders of Benue, Taraba, and Ebonyi states resulted in the displacement of hundreds of persons. The governors of Benue, Taraba, and Ebonyi states attempted to quell the violence through meetings with local leaders, curfews, and development programs. The federal government deployed mobile police units to affected areas to prevent further violence.

In November as many as 1,000 fishermen and their families from the Bakassi Peninsula sought refuge near Calabar due to reported violence by Cameroonian police forces. This area was part of the lands moved from Nigeria to Cameroon in response to the International Court of Justice’s 2007 Greentree agreement to settle the disputed land border between the two nations. Rivers state emergency services were trying to provide permanent housing and services for displaced citizens at year’s end.

Protection of Refugees.—The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol; it is a member of the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. Its laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

According to the National Commission for Refugees, the country had approximately 10,000 refugees, most of whom were from Sudan, Chad, Cameroon, and the Democratic Republic of Congo.

Refugee status for refugees displaced by the civil war in Sierra Leone terminated on January 1, when the camps were closed. Subsequently, 553 persons were repatriated to Sierra Leone. Another 240 refugees who requested residency were provided two-year residency permits and help in obtaining passports from Sierra Leone; the refugees also received job training and small grants from the UNHCR to begin their lives in the country.

The government also assisted in the repatriation of numerous Liberians and the resettlement in third countries of 232 Liberians. Another 349 Liberian refugees were registered for local integration in the country and resided in refugee camps administered by the UNHCR.

As a result of repatriation and local integration, overcrowding in refugee camps decreased during the year. The UNHCR provided food, education, and job skills training, and refugees were able to move and work freely in the country. However, refugees, like citizens, had poor access to the police and courts and few opportunities for employment.

The government also provided temporary protection to a few hundred individuals who may not qualify as refugees.

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

The constitution and law provide citizens with the right to change their government peacefully through periodic, free, and fair elections held on the basis of universal suffrage. The government, however, abridged citizens' right to change their government during the 2007 national and state elections, which were conducted amid widespread fraud and numerous incidents of violence.

Elections and Political Participation.—In May 2007 Umaru Musa Yar'Adua was sworn in as president with his vice president, Goodluck Jonathan. The inauguration marked the first transition from one elected presidential administration to another since the country gained independence from the United Kingdom in 1960. Forty-three parties participated in the national assembly elections, and 50 parties were listed on the ballot in the presidential election. However, presidential, national assembly, gubernatorial, and state-level elections were marred by poor organization, widespread fraud, and numerous incidents of violence. Although INEC claimed 60 percent voter turnout nationwide, most independent observers estimated it at less than 20 percent. All major independent observer groups, international and domestic, issued statements questioning the fairness of the elections and cited problems throughout the country, including ballot stuffing, intentional miscounting at both polling stations and ballot compilation stages, underage voting, multiple voting, intimidation, violence, and at least 300 deaths, including some politically motivated killings. Although all parties participated in the misconduct, observers cited violations by the ruling PDP significantly more often than those by other parties.

In 2007 as part of his pledge to address the shortcomings in the electoral system, President Yar'Adua established the Electoral Reforms Committee, consisting of governmental and NGO representatives, which was charged with bringing the electoral process to international standards. The committee submitted its report to President Yar'Adua in December 2008, citing lack of independence for INEC and state electoral committees as key deficiencies in the 2007 electoral process. The report recommended a system of proportional representation for both legislative and local elections as well as the reinstatement of independent candidacies. The report also called for the creation of three new commissions that would relieve INEC of many responsibilities to allow it to focus solely on conducting elections. The national assembly had not taken action on the recommendations by year's end.

Following the elections, election tribunals received more than 1,250 legal motions filed across the country to overturn the results of individual elections for all levels of government posts, including the presidency. Both major rival candidates of Yar'Adua—Atiku Abubakar and Muhammadu Buhari—petitioned for the annulment of the presidential race. The tribunal upheld the election, but Abubakar and Buhari appealed to the Supreme Court. In December 2008, in a 4-to-3 decision, the Supreme Court rejected the appeals, thereby upholding the election of President Yar'Adua. By the end of 2008, tribunals had nullified nine senatorial and 11 gubernatorial elections, and courts continued to hear and adjudicate cases during the year. Most of the nullifications were based on technicalities such as ballots lacking the party logo or not having the party name listed, rather than for criminal activity or fraud related to the elections.

Political violence occurred at federal, state, and local levels, as well as within political parties. The South Africa-based Institute for Democracy claimed that as many as 280 persons were killed in the country between February and March 2007. The government made little effort to investigate or bring charges in any of these cases of political violence.

Authorities did not investigate the January 2008 clash between members of the PDP and Action Congress in Ibadan, Oyo State, which injured 10 persons.

Violence marred local elections during the year. In Ekiti state, in the August 14 senatorial rerun election, youth gangs attacked election observers and burned cars. During the September 19 Ondo state by-election, youth gangs attacked a candidate, allegedly in the presence of police and INEC. Intimidated voters in both elections stayed away from the polls, and turnout was low.

During the December 5 by-election to fill a House seat in Ondo state, politicians and citizens caught three sitting PDP legislators in the act of stealing and stuffing ballot boxes. The legislators were taken into police custody, INEC rejected more than 4,000 illegitimate votes, and the opposition Labor Party candidate won.

During the year INEC registered three new political parties, bringing the total number of parties to 57. Establishing a political party was relatively easy if fees were paid. Parties generally formed around individuals rather than on ideological grounds. In 2008 there were allegations that new parties were established by the PDP to confuse voters with large numbers of candidates.

PDP membership conferred advantages, primarily in employment. Police arbitrarily arrested opposition leaders. For example, in Oyo state, police arrested an Action Congress candidate who challenged the 2007 election results and imprisoned him for confronting the ruling PDP local government chairman. The candidate was released, but police continued to harass him.

Opposition party members accused the president and the PDP of "tyranny" and "plotting to turn Nigeria into a one-party state." On June 24, the Bauchi state house of assembly served Deputy Governor Muhammad Gaba Gadi with an impeachment notice for alleged financial wrongdoing. The impeachment notice followed Gadi's refusal to defect from the All Nigeria Peoples Party and join Bauchi governor Isa Yugudain in his move to the PDP in April. According to press reports, two-thirds of the house of assembly had signed the impeachment notice even before an impeachment offense had been named. Legislators reportedly were offered 10 million naira (\$67,000) each for their signatures.

According to January 27 media reports, the Federal High Court in Abuja ruled in favor of the diaspora leaders' lawsuit to allow citizens living abroad to vote; however, no expatriate voters had been registered by year's end, and no polling booths had been prepared in the country's high commission offices in Commonwealth countries.

Men continued to account for more than 90 percent of the country's appointed and elected officials, which included more than 500 ministerial and national assembly positions. There were only six female ministers out of 42, nine female senators out of 109, and 30 female representatives out of 360. Although there were no female governors, five of 36 states had female deputy governors.

To promote national unity and loyalty, the law mandates that the composition of the federal, state, and local governments and their agencies, as well as the conduct of their affairs, reflect the diverse character of the country. The Yar'Adua administration was an example of this diversity. President Yar'Adua is a Fulani from the northern city of Katsina, the vice president is an Ijaw from the southern state of Bayelsa, and the senate president is an Idoma from the central state of Benue. The government also attempted to balance other key positions among the different regions and ethnic groups. The political parties also engaged in "zoning," a practice of rotating positions within the party among the different regions and ethnic groups to ensure that each region was given adequate representation. Despite this effort, with more than 250 ethnic groups, it was difficult to ensure representation of every group in the government.

Section 4. Official Corruption and Government Transparency

Corruption was massive, widespread, and pervasive at all levels of government and throughout the security forces. The constitution provides immunity from civil and criminal prosecution to the president, vice president, governors, and deputy governors while in office.

There was a widespread perception that judges were easily bribed and that litigants could not rely on the courts to render impartial judgments. Citizens encountered long delays and frequent requests from judicial officials for bribes to expedite cases or obtain a favorable ruling.

The EFCC's anticorruption efforts were largely ineffectual. Despite the arrest of several high-ranking officials by the EFCC, allegations continued that agency investigations targeted individuals who were out of favor with the government, while those that were in favor continued their activities with impunity. The EFCC claimed that approximately 10 former state governors were facing corruption charges; however, none of the cases had moved forward by year's end. In December the judge dismissed the 170 counts of illegal activity against former Delta state governor James Ibori, although the judge ordered a retrial. Ibori remained free on bail at year's end.

The EFCC's inability to bring a number of corruption investigations to closure; the 2008 replacement of its internationally respected chairman; and the 2008 transfer of many of its senior personnel raised questions about the government's commitment to fighting corruption. During the year the EFCC was accused of using its authority to harass citizens who objected to government policies (see section 1.c.).

In June the newly appointed Central Bank governor fired the managing directors of eight banks with large portfolios of nonperforming loans. Seven of the accused executives were free on bail, and their cases were pending at year's end. The eighth managing director escaped arrest by leaving the country. By year's end the EFCC claimed that it had recovered 300 billion naira (approximately \$2 billion) in loans issued without sufficient collateral.

In October the courts convicted the former Nigerian Ports Authority (NPA) board chairman Bode George and five other commissioners of abuse of public office in the improper awarding of contracts. George was sentenced to 30 months in prison without the option of paying a fine.

On December 9, the EFCC arrested former Sokoto state governor Attahiru Bafarawa, who was attending an opposition meeting to plan a new "mega" opposition party. Bafarawa was charged with embezzlement of public funds in 2007, which Bafarawa denied. Observers charged that the arrest was an attempt to harass opponents of the ruling party.

The corruption trial of former Ekiti state governor Fayose had not been heard by year's end, despite a December 2008 court ruling against Fayose's request for a delay. Fayose subsequently requested an exit visa to travel outside the country for alleged "urgent medical attention." The visa had not been granted by year's end.

Trials also remained pending in the 2008 corruption cases against: former aviation ministers Femi Fani-Kayode and Babalola Borishade for the alleged embezzlement of 19.5 billion naira (approximately \$130 million); former Adamawa state governor Boni Haruna for misappropriating 93 million naira (approximately \$618,000); former chairman of the NPA Board of Directors and five other NPA members for illegally awarding contracts worth 84 billion naira (approximately \$558 million); and former Edo state governor Lucky Igbinedion, against whom the EFCC was appealing a December 2008 verdict due to the light sentence he received for the alleged embezzlement of more than 3.6 billion naira (approximately \$24 million).

There were no developments in any of the 2007 pending corruption cases against former government officials.

There are no laws that provide for access to government information; in practice the government provided limited access.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

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

Numerous domestic and international NGOs were active. Significant domestic NGOs included the Civil Society Legislative Advocacy Center Nigeria, the Alliance for Credible Elections, the Center for Law Enforcement Education, the Committee for the Defense of Human Rights, the Kudirat Initiative for Democracy, Project Alert, the Women Trafficking and Child Labor Eradication Foundation (WOTCLEF), and the Women's Consortium of Nigeria. NGOs were generally independent of the government although some, such as WOTCLEF, which the previous vice president's wife chaired, had close government ties.

The government frequently met with NGOs and civil society organizations, but few tangible results came from such meetings.

International NGOs, including AI, Global Rights, and Human Rights Watch, as well as the UN special rapporteur on torture, actively addressed human rights issues in the country during the year.

The NHRC, which the government tasked with monitoring and protecting human rights, maintained zonal affiliates in the country's six political regions. Since its in-

ception the NHRC's operations were limited by insufficient funding. The commission also lacked an independent budget or judicial authority and could only make non-binding recommendations to the government. The commission published periodic reports detailing specific human rights abuses, including torture and poor prison conditions. In March the government removed the effective and outspoken NHRC executive secretary two years into her five-year term, replacing her with a former justice ministry official. This followed the replacement of her also outspoken predecessor after one year of his five-year term. The president is empowered by law to remove the executive secretary if the public is not being well served, although critics noted that the former executive secretaries were strong human rights advocates. In June the new NHRC leadership visited the UN Human Rights Council in Geneva to submit the country's four-year (2009-13) action plan to promote and protect human rights. While ambitious in scope, the plan did not identify resources, timelines, or strategies to achieve results.

During the year the government arbitrarily arrested NGO members. For example, on May 12, members of the Eagle Squad, a special police force sponsored by the government of Osun state, arrested 12 leaders of the Osun state Civil Societies Coalition Against Corruption and Rights Violations; the arrests occurred immediately after revocation of bail for the 12, who were arrested in July 2008 for protesting an election tribunal decision.

Police detained and harassed civil society activists from the Osun state Coalition Against Rights Violations in Oshogbo throughout the year. The courts repeatedly adjourned their cases, leaving the accused in legal limbo for extended periods.

On December 9, AI published *Killing at Will: Extrajudicial Executions and Other Unlawful Killings by the Police in Nigeria*, which documented 39 cases of security force killings and enforced disappearances and was based on interviews and research conducted between July 2007 and July 2009 (see section 1.a.).

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law prohibit discrimination based on community, place of origin, ethnic group, sex, religion, or political opinion; however, the government did not enforce the law effectively.

Women.—The law criminalizes rape and provides penalties of 10 years' to life imprisonment as well as fines of 200,000 naira (approximately \$1,330) for those convicted of rape, but societal pressure and the stigma associated with being a rape victim reduced both the percentage of rapes reported and the penalties imposed for conviction. The law recognizes spousal rape as a separate offense; however, spousal rape was difficult to prove in court, and no such prosecutions were reported during the year. Rape continued to be epidemic in universities. In 2006 AI issued a report criticizing the judicial system for a conviction rate of only 10 percent of the total number of rape prosecutions.

In October the government implemented its Niger Delta amnesty program to rehabilitate former militants. In November a group was relocated adjacent to the University of Port Harcourt, where shortly thereafter the former militants raped dozens of female students. There were no arrests reported, but the federal and Rivers state governments relocated the former militants to an unknown location.

The constitution provides for equality and freedom from discrimination; however, there are no laws that criminalize gender-based violence, and some federal laws condone such violence. For example, the penal code permits husbands to use physical means to chastise their wives as long as it does not result in "grievous harm," which is defined as loss of sight, hearing, speech, facial disfigurement, or life-threatening injuries. Penalties for the sexual assault of a man exceed the penalties for the same offense against a woman.

Domestic violence was widespread and often considered socially acceptable. In a survey released on November 23, 28 percent of women reported experiencing violence after age 15, the majority of which was inflicted by a husband or partner. Police did not intervene in domestic disputes. In rural areas, courts and police were reluctant to intervene to protect women who formally accused their husbands of abuse if the level of alleged abuse did not exceed customary norms in the areas. According to the 2003 Nigeria Demographic and Health Survey (NDHS), 64.5 percent of women and 61.3 percent of men agreed that a husband was justified in hitting or beating his wife for at least one of six specified reasons, including burning food and not cooking on time.

Project Alert on Violence Against Women, a local NGO, continued various outreach efforts to combat domestic violence, including training programs to sensitize police to domestic violence, support groups and programs for male abusers, and assistance to faith-based organizations in counseling victims of domestic abuse. Project Alert also operated a shelter, Sophia's Place, for victims of domestic violence, which

offered services such as counseling, legal aid, and skills acquisition. The Women's Rights Advancement and Protection Alternative also served as a leading voice in the campaign on violence against women and continuously advocated passage of legislation to protect women's rights.

Prostitution remained pervasive, particularly in urban areas. Statutes at both the federal and state levels criminalize prostitution. All states that adopted Shari'a had criminalized prostitution but enforced such prohibitions with varying success. The police frequently used the antiprostitution statutes as tools for harassment, arresting prostitutes and holding them until they paid bribes but rarely prosecuting the cases in court. Corporate prostitution (hiring of women as corporate employees to perform sexual acts to attract or retain clients) remained a problem, particularly in the banking sector.

Sexual harassment remained a common problem. No statutes prohibit sexual harassment, but authorities may prosecute violent forms under assault statutes. The practice of demanding sexual favors in exchange for employment or university grades was common. Women suffered harassment for social and religious reasons in some regions. *Purdah*, the cultural practice of secluding women and pubescent girls from unrelated men, continued in various parts of the north. Although this practice restricted women's movement during daylight hours, many women pursued economic and social activities outside the home in the evening.

Couples and individuals had the right to decide freely and responsibly the number, spacing, and timing of children; however, safe and effective information and counseling on reproductive health were not widely available to women and couples. According to the 2009 NDHS, 70 percent of women knew about at least one method of family planning; however, only 15 percent used any kind of birth control, and only 10 percent of women used modern methods. Approximately 50 percent of the population were adolescents, many of whom were sexually active, but few of whom had access to contraceptives. Maternal mortality, partially due to births to adolescents and women at high risk of complications from pregnancy, was high. Women married young and averaged 5.7 children; 36 percent of mothers did not receive any prenatal care, and only 38 percent of new mothers received postnatal check-ups within two days of delivery. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections.

Women also experienced considerable economic discrimination. There are no laws barring women from particular fields of employment, but women often experienced discrimination under traditional and religious practices. The country's NGO Coalition expressed concern over continued discrimination against women in the private sector, particularly in access to employment, promotion to higher professional positions, and salary equality. According to credible reports, many businesses operated with a "get pregnant, get fired" policy. Women remained underrepresented in the formal sector but played active and vital roles in the country's informal economy. The number of women employed in the business sector increased every year, but women did not receive equal pay for equal work. According to the UNDP's 2007-08 Human Development Report, women earned only 40 percent of what men earned and often found it difficult to acquire commercial credit or obtain tax deductions or rebates as heads of households. Unmarried women, in particular, endured many forms of discrimination.

Some women made considerable progress in both the academic and business worlds, but women overall remained marginalized. No laws barred women from owning land, but some customary land tenure systems allowed only men to own land, and women could gain access to land only through marriage or family. Many customary practices also did not recognize a woman's right to inherit her husband's property, and many widows became destitute when their in-laws took virtually all the deceased husband's property.

In some parts of the country, widows experienced unfavorable conditions as a result of discriminatory traditional customs and economic deprivation. "Confinement," which occurred predominantly in the east, was the most common rite of deprivation to which widows were subjected. Confined widows were under social restrictions for as long as one year and usually were expected to shave their heads and dress in black as part of a culturally mandated mourning period. In other areas a widow was considered a part of her husband's property to be "inherited" by his family.

Polygyny is legal and continued to be practiced widely among many ethnic and religious groups.

Women in the 12 northern states were affected to varying degrees by Shari'a. In Zamfara state, local governments enforced laws requiring the separation of Muslim men and women in transportation and health care. Kano state's 2005 prohibition on commercial motorcycle taxis taking women as passengers remained in place; however, it was not strictly enforced.

The testimony of women was given less weight than that of men in many criminal courts.

Children.—Citizenship of a child is derived from the parents. The government does not require birth registration, and the majority of births were unregistered; however, this did not result in denial of education, health care, or other public services.

Public schools remained substandard, and limited facilities precluded access to education for many children. The law calls for the government—when practical—to provide free, compulsory, and universal primary education to age 12. However, compulsory primary education rarely was provided, and there were numerous mandatory school fees. Most educational funding came from the federal government with state governments required to pay a share; however, not all state governments released their funding share. As a result of the government's failure to pay them for months at a time, primary, secondary, and university teachers were frequently on strike. In many parts of the country, girls were discriminated against in access to education for social and economic reasons. When economic hardship restricted families' ability to send children to school, many girls were directed into activities such as domestic work, trading, and street vending. Many families favored boys over girls in deciding which children to enroll in elementary and secondary schools.

Child abuse was common throughout the country. The government criticized child abuse and neglect but did not undertake significant measures to stop traditional practices harmful to children, such as sales of young girls into marriage. According to credible reports, poor families sold their daughters into marriage to supplement their incomes. Families sometimes forced young girls into marriage as early as puberty, regardless of age, to prevent "indecent" associated with premarital sex or for other cultural and religious reasons. Human rights groups reported sexual assaults and rapes of young girls, especially in the north.

The 2008 NDHS reported that 30 percent of females in the country had been subjected to FGM. While practiced in all parts of the country, FGM was most prevalent in the southern region among the Yoruba and Igbo. Infibulation, the most severe form of FGM, was infrequently practiced in northern states but common in the south. The age at which women and girls were subjected to the practice varied from the first week of life until after a woman delivered her first child; however, most women were subjected to FGM before their first birthday.

The law criminalizes the removal of any part of a sexual organ from a woman or girl, except for medical reasons approved by a doctor. According to the provisions of the law, an offender is any female who offers herself for FGM; any person who coerces, entices, or induces any female to undergo FGM; or any person who, for other than for medical reasons, performs an operation removing part of a woman or girl's sexual organs. The law provides for a fine of 50,000 naira (approximately \$332), one year's imprisonment, or both for a first offense and doubled penalties for a second conviction.

The federal government publicly opposed FGM but took no legal action to curb the practice. Because of the considerable impediments that anti-FGM groups faced at the federal level, most refocused their energies on combating the practice at the state and local levels. Twelve states banned FGM. However, once a state legislature criminalized FGM, NGOs found that they had to convince the local government authorities that state laws were applicable in their districts. The Ministry of Health, women's groups, and many NGOs sponsored public awareness projects to educate communities about the health hazards of FGM; however, underfunding and logistical obstacles limited their contact with health care workers.

FGM often resulted in obstetrical fistula (a tearing of the vaginal area as a result of prolonged, obstructed labor without timely medical intervention). Most fistulas resulted in the death of the baby and chronic incontinence in the woman. The social consequences of fistula included physical and emotional isolation, abandonment or divorce, ridicule and shame, infertility, lack of economic support, and the risk of violence and abuse. The absence of treatment greatly reduced prospects for work and family life, and women affected were often left to rely on charity.

Child prostitution is prohibited, with penalties of up to seven years' imprisonment for the adult involved. The minimum age of consensual sex is 18. The Child Rights Act, which provides penalties for pornography, was not implemented in all states.

During the year reports of missing children in Kano more than doubled. In July approximately 50 parents placed radio announcements about missing children; 20 announcements were placed in July 2008. The reason for the increase in missing children was unclear.

Children accused of witchcraft were kidnapped, tortured, and killed, particularly in Akwa Ibom state. According to local NGOs Stepping Stones Nigeria and Child's Rights and Rehabilitation Network (CRARN), attackers drove nails into children's

heads, cut off fingers, tied children to trees, and abandoned them in the jungle. Self-proclaimed “bishop” Sunday Williams publicly claimed to have killed 110 child witches and asserted that Akwa Ibom had as many as 2.3 million witches and wizards among its population of 3.9 million. In November 2008 authorities arrested Williams and charged him with torture and murder; he was arraigned in May, and the case continued at year’s end. The government did not acknowledge the wider problem of accusing children of witchcraft.

On July 3, police in Eket, Awka Ibom state, raided a CRARN shelter that housed 150 abused and neglected children, some of whom had fled their homes after being accused of witchcraft. Police beat children who tried to stop the arrest of two staff members, who were later released after the governor’s office intervened; two girls, aged 11 and 12, were left unconscious.

In December UNICEF reported that 10 percent of the country’s children—or 7.3 million children—were orphans, based on a survey released by the Ministry of Women’s Affairs and Social Development; according to 2007 UN statistics, 1.2 million children were orphaned due to HIV/AIDS. UNICEF added that 25 percent of children in the country, including orphans, were vulnerable due to inadequate nutrition, poor access to health care, and infrequent school attendance.

Many children were homeless and lived on the streets. There were no known statistics on their numbers. Major factors that caused children to turn to the streets included instability in the home, poverty, hunger, abuse and violence by parents, and displacement caused by clashes in the community.

In the north between two and 10 million children were “almajirai,” or children whose parents sent them from their rural homes to urban areas with the expectation that they would study and live with Islamic teachers. Instead of receiving an education, however, many almajirai became child beggars, who were forced to work manual jobs or beg for money that was then turned over to their teacher. The religious leaders often did not provide the almajirai with sufficient shelter or food, and many of these children were effectively homeless. In 2008 the government distributed 90 million naira (approximately \$600,000) to 15 states to introduce Koranic education into the mainstream educational system to rehabilitate, integrate, and educate almajirai. There were no reports that the program resulted in removing almajirai from the streets.

Trafficking in Persons.—The law prohibits trafficking in persons for all purposes; however, persons were trafficked to, from, through, and within the country. The extent of the problem was unknown.

The country was a source, transit, and destination country for trafficked persons during the year. No government or NGO estimates on the extent of trafficking were available, but the magnitude of the problem was believed to be significant. This was based on several factors, including the number of deportees returned to the country and reports of Nigerians stranded along trafficking routes, particularly in North African countries. The largest segment of trafficking victims rescued by the National Agency for Prohibition of Trafficking in Persons (NAPTIP) came from Edo state.

Criminals smuggled citizens to Europe, the Middle East, and other countries in Africa for forced labor, domestic servitude, and sexual exploitation. Traffickers moved girls and women for forced prostitution and domestic labor to Italy, Austria, Spain, Norway, Belgium, the Netherlands, Greece, the United Kingdom, Russia, and countries in West and Central Africa. The UN Office on Drugs and Crime (UNODC) estimated that 72 percent of female trafficking victims for prostitution in Italy came from the country. Traffickers moved children for involuntary domestic and agricultural labor and street peddling within the country and to countries in West and Central Africa. Both women and children were trafficked to Saudi Arabia for the purposes of prostitution, sexual exploitation, and labor. There also were reports that trafficked children were used as camel jockeys in the Middle East. The country was a destination country for children trafficked for forced labor from other West African countries, primarily Benin. UNICEF estimated 5,000 Beninese children were trafficked into Abeokuta, Ogun state, and forced to work in the granite quarries.

Women and children were most at risk of being trafficked, and 70 percent of all trafficking victims in the country were female. Boys were trafficked primarily to work as forced bondage laborers, street peddlers, and beggars, while girls were trafficked for domestic service, street peddling, and commercial sexual exploitation. Trafficking in children, and to a lesser extent in women, occurred within the country’s borders. Traffickers moved children from rural areas to cities to work as domestics, street peddlers, and beggars.

The UNODC reported that individual criminals and organized criminal groups conducted trafficking, often involving relatives or acquaintances of victims. Traffickers employed various methods. Many organized themselves into specialties, such as passport and other document forgery, recruitment, and transportation. To recruit

young women, traffickers often made false promises of legitimate work outside the country. Traffickers also deceived child victims and their parents with promises of education, training, and pay. Once away from their families, children underwent harsh treatment and intimidation. Traffickers subjected victims to debt bondage, particularly those forced into prostitution. In some cases traffickers employed practitioners of traditional magic to threaten victims with curses to procure their silence. Victims were transported by air, land, and sea. Established land routes to Europe transited Benin, Togo, Ghana, Cote d'Ivoire, Guinea, Mali, Niger, Libya, and Morocco.

Child trafficking occurred most frequently in the southeast states of Abia, Ebonyi, and Enugu, specifically the selling of babies through illegal and unregistered hospitals and maternity homes. Many young girls, upon discovering they were pregnant, decided to enter these hospitals to obtain money from selling their babies. NAPTIP officials reported that the girls received 20,000 to 30,000 naira (approximately \$133 to \$200) for selling a baby; the baby was then resold for 300,000 to 400,000 naira (\$2,000 to \$2,650) in illegal and undocumented transactions. Reportedly babies were sometimes sold to legitimate couples who wanted a child, but many babies also were sold for use in rituals during which they were killed.

The law prohibits human trafficking and provides for penalties including monetary fines, imprisonment, deportation, forfeiture of assets and passport, and liability for compensation to victims in civil proceedings. Prison terms range from 12 months to life, while fines range from 50,000 to 200,000 naira (approximately \$332 to \$1,330).

NAPTIP, a 555-employee agency with 175 investigators and 32 prosecutors nationwide, has primary responsibility for combating trafficking. The NPF and the Nigerian Immigration Service also had antitrafficking units.

During the year the government took steps to implement the National Plan of Action passed in August 2008. The action plan is a broad framework of antitrafficking programs that cover research, prevention, prosecution, and protection and requires coordination between government, law enforcement agencies, the legislature, and NGOs.

By year's end the government had obtained 25 trafficking convictions. Preliminary data indicated that during the year NAPTIP investigated 149 new cases and prosecuted 37 new cases, with 88 cases pending. Observers attributed the low conviction rate to witnesses' reluctance to testify and to the slow progress of cases through the courts.

The NPF Antitrafficking Task Force staffed 22 units in states with the worst trafficking problems. Officials complained of insufficient funding to support investigative field work.

The government increased collaboration on investigations with law enforcement agencies in the Netherlands, France, Spain, Italy, and Benin. By year's end NAPTIP had signed mutual cooperation agreements with eight nations. Officials attended international workshops on trafficking, and the government collaborated with Benin to arrest traffickers and repatriate trafficking victims. The Ogun State government signed a memorandum of understanding with Benin to stop the trafficking of Beninese children in the rock quarries of southwest Nigeria.

Reports continued from informants and foreign officials that law enforcement officers and other individuals in the immigration and airport authorities collaborated in trafficking persons across the country's borders. NAPTIP provided training to police and customs officials on trafficking. The law provides penalties for officials who aid or abet trafficking.

The government provided protection and rehabilitation for trafficking victims, although funding was insufficient. NAPTIP served as the point of contact for immigration and police officials who discovered victims. During the year 928 victims passed through the agency. NAPTIP operated shelter facilities at secure locations in Lagos, Abuja, Benin City, Uyo, Enugu, Sokoto, Maiduguri, and Kano. The Ministry of Women Affairs operated two shelters, one in Kano and another in Benin City. NAPTIP officials connected victims to nongovernmental or international organizations for shelter, counseling, and reintegration assistance. NAPTIP also maintained hotlines for victims and anyone seeking or wanting to provide information on trafficking. During the year the government helped victims to repatriate to their home countries and reunited trafficked children with their families.

The Labor Ministry, in collaboration with the International Labor Organization (ILO), NAPTIP, police, and other federal agencies, provided food, transportation, and other logistical assistance to reunite internally and externally trafficked children with their families.

The government provided some funding for protection activities. For victims serving as witnesses, divisional police officers were appointed to serve as witness protec-

tion officers. NAPTIP officials and police officers worked together to provide assistance. NAPTIP organized “town hall” meetings with NGOs to bring together community and traditional leaders, teachers, school children, and other groups to raise awareness of the dangers of trafficking, legal protections, and available resources. Several state governments in the south continued efforts to protect victims. An Edo state NGO, Idia Renaissance, operated a youth resource center, funded by UNICEF and foreign organizations, that provided job-skills training and counseling to trafficking victims and other youth. The Society for the Empowerment of Young Persons, with support from a foreign donor organization, provided vocational training and business mentoring support to trafficking victims in Edo State.

The stakeholder forum, established by NAPTIP to provide antitrafficking training to security and immigration officials and to raise awareness of trafficking issues among local government leaders, met quarterly in Abuja. Law enforcement officials, government representatives, NGO groups, and diplomatic missions attended the quarterly meetings. NAPTIP also worked with the media to raise awareness among the public, and NAPTIP officials appeared on national talk shows and state programs.

State-level antitrafficking committees, consisting of immigration officials, civil society organizations, law enforcement agents, and federal ministries, operated in 26 states, but not all were active. These groups coordinated actions in trafficking cases between their respective organizations.

During the year the government conducted public information campaigns, such as the first annual race against trafficking in Edo state in which more than 5,000 students took part. Additional public campaigns were being planned in other areas of the country.

On September 23, Dutch police, in conjunction with United Kingdom legal and law enforcement officials, conducted a training seminar for NAPTIP and police on the use of e-mail, voice and video recordings, and digital photographs as evidence in prosecuting trafficking cases; current law does not accept such digital media as evidence in court cases.

The Department of State’s annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—There are no laws that prohibit discrimination against persons with physical or mental disabilities in employment, education, access to health care, or the provision of other state services. There are no laws requiring physical accessibility for persons with disabilities.

Persons with disabilities faced social stigma, exploitation, and discrimination, and they were often regarded by their families as a source of shame. Many families viewed children with disabilities who could not contribute to family income as liabilities and sometimes severely abused or neglected them. Many indigent persons with disabilities begged on the streets.

The government ran vocational training centers in Abuja and Lagos to train indigent persons with disabilities. Individual states also provided facilities to assist blind and other persons with physical disabilities to become self-supporting. Persons with disabilities established self-help NGOs, such as the Hope for the Blind Foundation in Zaria, the Kano Polio Victims Trust Association, the Joint National Association of Persons with Disabilities, and Comprehensive Empowerment of Nigerians with Disabilities.

National/Racial/Ethnic Minorities.—The country’s population was ethnically diverse and consisted of more than 250 groups, many of which were concentrated geographically and spoke distinct primary languages. There was no majority ethnic group; however, the three major groups—Hausa, Igbo, and Yoruba—jointly constituted approximately half the population. Ethnic discrimination was widely practiced by members of all ethnic groups and was evident in private-sector hiring patterns and the effective ethnic segregation of urban neighborhoods. A long history of tension existed between some ethnic groups.

Many groups complained of insufficient representation in government.

The law prohibits ethnic discrimination by the government, but claims of marginalization continued, particularly by members of southern groups and Igbos. Ethnic groups of the Niger Delta continued their calls for senior representation on petroleum agencies and committees and within security forces.

The constitution requires that the government have a “national character,” meaning that cabinet and other high-level positions are distributed to persons representing each of the 36 states. Traditional relationships were used to pressure government officials to favor particular ethnic groups in the distribution of important positions and other patronage.

All citizens have the right to live in any part of the country, but state and local governments frequently discriminated against ethnic groups not indigenous to their area, occasionally compelling individuals to return to a region where their ethnic group originated but to which they had no personal ties. The government sometimes compelled nonindigenous persons to move by threats, discrimination in hiring and employment, or destroying their homes. Those who chose to stay sometimes experienced further discrimination, including denial of scholarships and exclusion from employment in the civil service, police, and the military.

In Plateau state, the Hausa and Fulani, most of whom were Muslim and considered nonindigenous, claimed to face significant discrimination from the local government in scholarships and government representation.

Ethnic groups claimed economic exploitation, environmental destruction, and government indifference to their problems in the oil-producing Niger Delta region. Incidents of ethnic conflict and confrontation with government officials and forces continued in the delta area (see section 1.g.).

Religious differences often mirrored regional and ethnic differences and resulted in numerous deaths and the displacement of thousands of persons during the year.

Unlike in previous years, there was no interethnic fighting in Warri, Delta state; however, numerous ethnic clashes occurred in other parts of the Niger Delta, including the states of Akwa Ibom, Bayelsa, and Cross River. On February 27, for example, six persons died as a result of ethnic fighting in Yenagoa, Bayelsa state, and on March 13, 20 persons died in an intercommunal clash in Cross River state.

Interethnic fighting elsewhere resulted in numerous deaths and injuries. Clashes between the Ezra and Ezillo communities in Ishielu, Ebonyi state, continued and resulted in more than 100 deaths since May 2008.

On September 3, a communal clash in Nkerehi, in Orumba South, Anambra state, resulted in five deaths, injuries to 15 persons, and the destruction of at least seven houses; the violence was triggered by a dispute over a proposed name change for the community. Attacks by a vigilante group forced many Nkerehi community members to hide in a nearby church, where the government reportedly failed to provide protection or food.

Conflicts over land rights continued among members of the Tiv, Kwalla, Jukun, and Azara ethnic groups living near the convergence of Nassarawa, Benue, and Taraba states.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Homosexual activity is illegal under federal law, and homosexual practices are punishable by prison sentences of up to 14 years. In the 12 northern states that have adopted Shari'a law, adults convicted of engaging in homosexual activity may be subject to execution by stoning, although no such sentences have been imposed.

Because of widespread taboos against homosexual activity, very few persons openly demonstrated such conduct. The NGOs Global Rights and The Independent Project provided lesbian, gay, bisexual, and transgender (LGBT) groups with legal advice and training in advocacy, media responsibility, and HIV/AIDS awareness.

No action was taken against persons who in 2008 stoned and beat members of the House of Rainbow Metropolitan Community Church, an LGBT-friendly church in Lagos. The attacks occurred after four newspapers published photographs, names, and addresses of church members.

As of year's end, the trial of 18 men, originally charged in September 2008 with sodomy and subsequently charged with vagrancy, had been postponed multiple times. Five defendants were able to pay bail, set at 20,000 naira (\$133), and were released; the remaining 13 defendants remained in jail.

Other Societal Violence or Discrimination.—There was widespread discrimination against persons with HIV/AIDS, which the public considered a disease resulting from immoral behavior. Persons with HIV/AIDS often lost their jobs or were denied health care services. Authorities and NGOs implemented public education campaigns to reduce the stigma and change perceptions.

In September 2008 the Bauchi state Agency for the Control of HIV/AIDS, Tuberculosis, Leprosy, and Malaria announced an initiative to pair HIV-positive couples for marriage in an attempt to reduce the spread of the disease. The couples were introduced during counseling sessions and had the right to accept or reject a suggested partner. As of March, 94 HIV positive couples were matched and had married. The Joint UN Program on HIV/AIDS voiced concern over the plan due to the increased risk of passing the virus on to any children born and the possibility of leaving the children orphaned.

Section 7. Worker Rights

a. The Right of Association.—The law provides all citizens with the right to form or belong to any trade union or other association for the protection of their interests; while workers exercised this right in practice, some statutory limitations on the right of association and on trade unions restricted this right. Some of these restrictions were implemented to curb the practice of forming thousands of small unions with as few as three or four employees each.

Workers, except members of the armed forces and employees designated as essential by the government, may join trade unions. Essential workers included government employees in the police, customs, immigration, prisons, the federal mint, and the Central Bank.

According to figures provided by the Michael Imoudu National Institute for Labor Studies, eight million persons—or 60 percent of formal sector workers—belonged to unions. Most workers in the informal sector belonged to thrift and cooperative societies, which helped with daily savings and loans to meet business needs.

Trade union federations, called “central labor organizations,” must be registered formally by the government. Each federation must consist of 12 or more trade unions, and trade union membership in a federation must be exclusive. A minimum of 50 workers per enterprise is required to form a trade union.

The law allows unions to conduct their activities without interference; however, the law also narrowly defines what union activity is legal.

The law limits the right to strike to matters pertaining to breach of contract or wages and conditions of work, thereby prohibiting strikes over matters of national economic policy; however, the ILO ruled that this policy was contrary to ILO conventions. The government chose not to enforce this provision of the law during the four-month public university strikes over public education policy, the national minimum wage, university research and development funding, academic autonomy, and increased representation on university education boards.

Workers not defined as “essential” had the right to strike, although they had to provide advance notice. Workers under collective bargaining agreements cannot participate in strikes unless their unions complied with legal requirements, including provisions for mandatory mediation and referral of disputes to the government. Workers can bring labor grievances to the judicial system for review; however, courts do not ensure due process in protecting workers’ rights. Laws prohibit workers from forcing persons to join strikes, closing airports, or obstructing public byways, with violations subject to stiff fines and possible prison sentences.

There are no laws prohibiting retribution against strikers and strike leaders, but strikers who believed they were victims of unfair retribution could submit their cases to the Industrial Arbitration Panel, with the approval of the Labor Ministry. The panel’s decisions were binding on parties but could be appealed to the National Industrial Court. In practice the decisions of these bodies infrequently carried the force of law. Union representatives described the arbitration process as cumbersome, time-consuming, and an ineffective deterrent to retribution against strikers.

On June 19, Ekiti state Governor Olusegun Oni ordered the closure of state-owned television and radio stations following a workers’ strike and ordered the removal from the stations of three union leaders who led the protest. Despite the intervention of the Nigerian Labor Congress and the Ekiti chapter of the Nigeria Union of Journalists, the stations remained closed as a result of the governor’s order.

b. The Right to Organize and Bargain Collectively.—The law provides for the right to both organize and bargain collectively between management and trade unions. Collective bargaining occurred throughout the public sector and the organized private sector but remained restricted in the private sector.

The Ministry of Labor is responsible for monitoring and addressing reported cases of antiunion discrimination, but in most cases workers’ fears of negative repercussions inhibited their reporting antiunion activities.

In October 2008 the National Union of Petroleum and Natural Gas Workers picketed the headquarters of Shell Oil in Nigeria for firing 21 contract workers with 15 to 25 years of service after they attempted to unionize.

Solidarity Center Nigeria reported that “yellow dog” contracts, which explicitly require that employees not join a union as a condition of employment, were used despite being technically illegal.

During the year Chinese employers reportedly failed to comply with labor laws pertaining to the protection of union organizing, especially in the construction and textile sectors.

Workers and employers in export processing zones (EPZs) were subject to sections of the national labor laws pertaining to EPZs, which provided for a 10-year prohibi-

tion on trade unions, strikes, or lockouts following the commencement of operations within a zone. In addition, the law allows the Nigerian Export Processing Zones Authority, which was created by the federal government to oversee management and operations of EPZs, to handle the resolution of disputes between employers and employees, instead of workers' organizations or unions.

c. Prohibition of Forced or Compulsory Labor.—Although the law prohibits forced or compulsory labor, including by children, it was widespread, particularly bonded labor and domestic servitude. Enforcement of the law was not effective in many parts of the country. The government did not take steps to identify or eliminate forced labor.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law, which sets a general minimum age for employment of 12 years, did not protect children from exploitation in the workplace and was not effectively enforced by the government. Child labor was widespread, and the Ministry of Labor and NAPTIP estimated there were more than 15 million children involved in child labor.

Young persons under age 14 may only be employed on a daily basis, must receive the day's wages at the end of each work day, and must be able to return each night to their parents' or guardian's residence, but these regulations do not apply to domestic service. The law also provides exceptions for light work in agriculture and horticulture if the employer is a family member.

For industrial work and work on vessels where a family member is not employed, the minimum work age is 15 years, which is consistent with the age for completing educational requirements; however, child labor remained a problem. The law states that children may not be employed in agricultural or domestic work for more than eight hours per day. Apprenticeship of youths at the age of 13 is allowed under specific conditions.

The worst forms of child labor identified in the country included commercial agriculture and hazardous farm work; street hawking; exploitative cottage industries and hazardous mechanical workshops; exploitative and hazardous domestic work; commercial fishing; exploitative and hazardous pastoral and herding activities; construction; transportation; mining and quarrying; prostitution and pornography; forced and compulsory labor and debt bondage; children in ethnic, religious, political conflicts, and violence; and children engaged in drug peddling.

Many children worked as beggars, street peddlers, bus conductors, and domestic servants in urban areas. Children also worked in the agricultural sector and in mines. Boys worked as bondage laborers on farms, in restaurants, small businesses, and granite mines, as street peddlers, and beggars. Girls were forced to work as domestic servants, street peddlers, and commercial sex workers.

In addition to citizen children, there were reports of thousands of trafficked Beninese children forced to work in granite mines in Abeokuta, Ogun state. In Abakaliki, Ebonyi state, children could be seen hammering down large pieces of rocks, bundling them into bunches, and carrying them on their heads, but there were no official statistics on their country of origin.

In an effort to withdraw children from the worst forms of child labor, the Ministry of Labor established and upgraded skills acquisition and vocational training centers in Kaduna, Ibadan, Enugu, and Lagos; four other centers were being developed. Thousands of smaller NGO-run or state-run vocational training centers also were in operation.

The Ministry of Labor dealt specifically with child labor problems and operated an inspections department to enforce legal provisions on conditions of work and protection of workers. From January 2008 to June 2009, the Labor Ministry conducted more than 29,882 inspections with 408 officers. Although the inspectorate employed nearly 400 inspectors for all business sectors, there were fewer than 50 factory inspectors for the entire country. Complaints were rarely made by victims or their guardians due to intimidation and fear of losing their jobs. Labor inspections were mostly random but occasionally occurred when there was suspicion, rather than actual complaints of, illegal activity. The ministry conducted inspections mostly in the formal business sector, where the incidence of child labor was not reported to be a significant problem. NAPTIP bears some responsibility for enforcing child labor laws, although it primarily rehabilitates trafficking and child labor victims.

The government's child labor policy focused on intervention, advocacy, sensitization, legislation, withdrawal of children from potentially harmful labor situations, and rehabilitation and education of children following withdrawal. The Labor Ministry is responsible for enforcing labor laws. The ministry reported that 10 training and awareness raising programs and additional child labor staff were funded by the government during the year.

During the year four states (Akwa Ibom, Benue, Osun, and Edo) passed the Child Rights Act, bringing the total to 21 cooperating states plus the FCT; the federal government passed the Child Rights Act in 2003, but it required state-level ratification for full implementation. UNICEF continued to advocate passage and enforcement in all other states.

Private and government initiatives to eliminate child labor continued but remained ineffective. The government gradually implemented the ILO/International Program for the Elimination of Child Labor Sustainable Tree Crop Program in the cocoa and other agricultural subsectors, a component of which sensitized farmers on hazardous child labor and child trafficking for labor exploitation issues. Akwa Ibom, Ondo, Cross River, and Abia states participated in the program during the year.

e. Acceptable Conditions of Work.—The national monthly minimum wage is 8,630 naira (approximately \$57) with one month's extra pay for Christmas. The national minimum wage did not provide a decent standard of living for a worker and family. A tripartite committee infrequently reviewed the minimum wage and provided recommendations to the national assembly, which is responsible for passing minimum wage legislation; however, the committee had not conducted such a review in more than 10 years. The government directed each state administration to establish its own salary structure based on its ability to pay, with a floor of at least the national minimum wage. Some federal ministries, states, and private sector companies raised their monthly minimum wage for all employees to 9,000 naira (\$60). However, workers in some states complained that the minimum wage had not been implemented.

The Labor Ministry has responsibility for monitoring compliance with the minimum wage, which it strictly enforced for companies with over 50 employees. When a company with fewer than 50 employees was found to pay less than the minimum wage, the ministry reviewed the company's records to determine whether it could pay the minimum wage and then issued a ruling.

There has been no review of the national minimum wage for 10 years. On January 12, unions in the public education, aviation, medical and health, radio and television, federal and civil service, and petroleum sectors either threatened to go on strike or went on strike to press for a new minimum wage review.

From June to October, the Academic Staff of Universities Union (ASUU) and the Nonacademic Staff Union conducted a nationwide strike that lasted four months, during which universities remained closed. The union called for a standardized national wage structure, living wages, increased institutional resources, and government implementation of other commitments negotiated in 2004 with the ASUU. In June the National Union of Teachers went on strike to protest the failure of state and federal governments to honor wage commitments also negotiated in 2004. The government, through the Ministries of Labor and Education, refused to negotiate with the union, since teachers' wages were set at the state level. Teachers returned to work after the Labor Ministry agreed to some, but not all, of their demands.

The law mandates a 40-hour work week, two to four weeks of annual leave, and overtime and holiday pay, except for agricultural and domestic workers. The law prohibits excessive compulsory overtime for civilian government employees; however, the Labor Ministry did not properly monitor and enforce health and safety conditions due to insufficient police and factory inspectors. The law also establishes general health and safety provisions, some of which were aimed specifically at young or female workers, and requires that the inspectorate division of the Ministry of Labor inspect factories for compliance with health and safety standards. However, this agency was greatly underfunded, lacked basic resources and training, and consequently did not sufficiently enforce safety oversight at most enterprises, particularly construction sites and other nonfactory work locations. The law requires employers to compensate injured workers and dependent survivors of those killed in industrial accidents; however, the law was not strictly enforced. The Factories Law provides for the protection of factory employees in hazardous situations, including the right of employees to remove themselves from such situations; however, the law did not provide similar provisions for other workers.

The labor laws apply to legal foreign workers, but not all companies respected these laws in practice.

RWANDA

Rwanda, with a population of 10 million, is a constitutional republic dominated by a strong presidency. In 2003 voters elected President Paul Kagame to a seven-year term in largely peaceful but seriously marred elections. Chamber of Deputies elections took place in September 2008 and were peaceful and orderly, despite irreg-

ularities. The Rwanda Patriotic Front (RPF) dominated the government and legislature. Civilian authorities generally maintained effective control of the security forces.

Citizens' right to change their government was effectively restricted. Violence against genocide survivors and witnesses by unknown assailants resulted in deaths. There were reports of abuse of suspects by security forces and local defense members, and prison and detention center conditions remained generally harsh. Security forces arbitrarily arrested and detained persons. Prolonged pretrial detention was a problem. There were restraints on judicial independence and limits on freedoms of speech, press, association, and religion. The government forcibly returned refugees. Official corruption and restrictions on civil society remained a problem. Societal violence and discrimination against women, trafficking in persons, and discrimination against Twa and the lesbian, gay, bisexual, and transgender (LGBT) community occurred. There were restrictions on labor rights, and child labor occurred.

In January the governments of the Democratic Republic of Congo (DRC) and Rwanda accelerated efforts to achieve a rapprochement, which they had initiated in late 2008. In January and February the two governments carried out a joint operation called *Umoja Wetu* (Swahili for "Our Unity") in the eastern DRC against the Hutu rebel group known as the Democratic Forces for the Liberation of Rwanda (FDLR). The FDLR was responsible for numerous atrocities against Congolese civilians in eastern DRC, and its leaders were implicated in the 1994 Rwandan genocide. The *Umoja Wetu* operation disrupted the FDLR and precipitated the return of Rwandan FDLR combatants and noncombatants. Rwandan forces also arrested General Laurent Nkunda, the leader of the Congolese rebel National Congress in Defense of the People (CNDP). According to a December report by the international nongovernmental organization (NGO) Human Rights Watch (HRW), the joint DRC-Rwandan operation resulted in civilian deaths.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings. Unlike in the previous year, there were no reports of unlawful killings by local defense members. The government generally investigated security force killings and prosecuted perpetrators; however, authorities took no action against police officers responsible for the 2007 shooting deaths of 22 criminal suspects.

There were no developments in the case of the July 2008 killing of a university student by a local defense member in Kigali's Nyagatare sector. Following the death of the student and three other local defense killings in a six-month period in the same district, police disarmed all local defense members in the district.

Unidentified individuals killed witnesses to the 1994 genocide throughout the country to prevent testimony and undermine the *gacaca* process, which the government established to address certain categories of crimes related to the genocide (see section 1.e.).

The government investigated and prosecuted individuals accused of threatening, harming, or killing genocide survivors and witnesses or of espousing genocide ideology, which the law defines as dehumanizing an individual or a group with the same characteristics by threatening, intimidating, defaming, inciting hatred, negating the genocide, taking revenge, altering testimony or evidence, killing, planning to kill, or attempting to kill someone. A special protection bureau in the Office of the National Public Prosecution Authority (formerly the Office of the Prosecutor General) investigated 473 cases, 181 of which were filed in court (see section 1.e.).

In December HRW released the report *You Will Be Punished*, which describes 201 killings of civilians attributed to government forces during the DRC-Rwanda joint operation of January and February. The report also described widespread abuses by soldiers against civilians. According to HRW, several of the victims and witnesses it interviewed "found it difficult, if not impossible, to distinguish Rwandan army soldiers from former CNDP combatants recently integrated into the Congolese Armed Forces, who played an important role in the operation." The HRW report, citing a 2008 UN Group of Experts report, noted that soldiers of both armies "often wore identical camouflage uniforms" and that Rwandan soldiers had Rwandan flags on their uniform sleeves. In some cases, according to HRW, former CNDP combatants had the same army uniforms, although they usually removed the Rwandan flag.

According to the HRW report, in late February soldiers gathered residents of Ndurumo, North Kivu, by calling a meeting at a local school and subsequently shot and killed approximately 90 villagers, including women and children, reportedly for collaborating with the FDLR. In a similar incident, also in February, soldiers killed

approximately 40 residents of Byarenga, North Kivu. There were smaller numbers of civilians killed in other incidents during January and February.

The government denied the RDF had participated in any killing of civilians. Neither Congolese nor Rwandan authorities had taken any steps to investigate or prosecute any soldiers allegedly involved in such incidents by year's end.

At least one mob killing occurred during the year. In September residents of Kayanza district killed a suspected thief. While the main suspect fled after the killing, the trial of several accomplices was ongoing at year's end.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution and law prohibit such practices, but instances of abuse of detainees and prisoners by police or prison guards sometimes occurred. Authorities dismissed or disciplined some police officers for use of excessive force and other abuses during the year and transferred criminal cases for prosecution; however, authorities took no action against police officers responsible for the 2007 shooting deaths of 22 criminal suspects.

A local NGO that assists torture and abuse victims reported that it received no new cases during the year and that incidents and severity of abuse by authorities continued to decline.

There were reports that police beat members of the Jehovah's Witnesses who refused to participate in nighttime security patrols, and authorities arrested some members (see section 2.c.).

HRW stated it received reports of civilians who alleged that security personnel arrested them arbitrarily during the Umoja Wetu operation in the DRC, and that some of the security personnel then changed into Rwandan army uniforms before taking the civilians across the border to Rwanda and beating, detaining, and questioning them over their alleged ties to the FDLR. All reported being returned to the DRC after being held for a period of up to 17 days. None reported having been charged with any offense. There was no other independent confirmation of these reports.

Neither Congolese nor Rwandan authorities had taken any steps to investigate or prosecute any soldiers allegedly involved in such incidents by year's end.

Isolated reports of abuse by local defense members continued.

There were reports that unknown assailants on occasion harassed and threatened journalists and other citizens (see section 2.a.).

Prison and Detention Center Conditions.—Conditions in prisons and detention centers were harsh. Individuals convicted of genocide-related offenses since gacaca hearings began nationwide in 2006 made up the majority of the prison population. There were unconfirmed reports that police sometimes beat newly arrested suspects to obtain confessions. Kigali's Gikondo transit center, where authorities held street children, vagrants, suspected prostitutes, and street sellers, continued to operate, despite a senate committee's July 2008 call for its closure due to substandard conditions (see section 1.d.).

In July 2008 the government discontinued food contributions from family members of prisoners and instituted a prepaid canteen system that families could access. At year's end human rights groups monitoring the government's ability to provide adequate nutrition to prisoners—especially those previously receiving family farm contributions—reported a slight increase in malnutrition among prisoners. Pregnant and breastfeeding prisoners, as well as female prisoners with small children, continued to receive food supplements from family members. The government allowed families to provide food to prisoners in smaller jails or detainees in police stations awaiting hearings or transfers. Prisoners outside of Kigali maintained gardens, which supplemented prison diets. Some prisoners transferred from police jails to national prisons had not been fed for several days. Police in previous years told crime victims that if the victims did not provide food to the accused, authorities would release the accused.

On August 11, prisoners in the Kimironko and Cyangugu prisons rioted over lack of food and visitation rights, resulting in several injuries.

The International Committee of the Red Cross (ICRC) provided additional expertise and medical, logistical, and material support to improve conditions for inmates, including hygiene supplies, education programs for minors, health monitoring, and construction programs to improve prison infrastructure.

All of the country's 14 prisons provided treatment for tuberculosis (TB), and eight provided full TB diagnostic and treatment services. Eleven prisons provided HIV voluntary counseling and testing services, while 12 provided antiretroviral treatment for HIV-infected prisoners.

Prisoner deaths resulted from anemia, HIV/AIDS, respiratory disease, malaria, and other diseases, although the rates of such deaths were similar to those found in the general population. The Prisons Service reported that prisoner deaths declined during the year as a result of a Global Fund program that facilitated the placement of medical personnel in all 14 prisons, treatment for diseases including HIV/AIDS, and improvement in hygiene and sanitary conditions.

On September 26, in Nyagatare Prison, two prisoners died and 11 were hospitalized due to a botulism outbreak; 67 of the 188 inmates in the prison contracted the disease.

By the end of October, the prison population was approximately 64,000 in a system designed for 43,400. The population consisted of approximately 59,100 men, 4,200 women, and 700 minors. Additionally, as of August there were 679 children living with their parents in prison.

National prison policy prohibits the hiring of prisoners to perform work at private residences and businesses. However, community service, a national program, was often part of a prison sentence for those who confessed to genocide-related crimes, and prisoners may work (uncompensated) on community projects such as building roads and bridges. Prisoners charged with criminal offenses unrelated to the genocide were not eligible to volunteer for work details. Prisoners often volunteered for such details, which provided time away from overcrowded prisons and in some cases extra privileges.

In some cases juvenile prisoners had access to the adult wards. There were reports of abuse of minors, both by other minors and by the adult prison population, especially among the male inmate population.

Authorities generally separated pretrial detainees from convicted prisoners; however, there were numerous exceptions as a result of the large number of genocide detainees awaiting trial.

The remaining high-profile political prisoner, former transport minister Ntakirutinka, remained in a special section of the Kigali "1930" prison.

The ICRC reported unimpeded access on an unannounced basis to all prisons during the year. Local human rights NGO League for Human Rights in the Great Lakes Region (LDGL) reported similar ease of access to all prisons; at year's end another local human rights NGO was awaiting a renewed permit to visit prisons. The government also permitted independent monitoring of prison conditions by diplomats and journalists. The ICRC continued its visits to communal jails and military-supervised jails.

During the year the government completed construction of a new block of prison cells in compliance with international standards for treatment of prisoners convicted by international criminal tribunals. In November the Special Court for Sierra Leone (SCSL) transferred eight prisoners to Rwanda to serve their sentences. The SCSL agreed with the International Criminal Tribunal for Rwanda (ICTR) on the quality of the detention center, which the UN deemed met international standards.

During the year the government reported that it had enrolled all prisoners in the national health insurance plan, although medical treatment remained inadequate.

d. Arbitrary Arrest or Detention.—The constitution and law provide legal safeguards against arbitrary arrest and detention; however, security forces arrested and detained persons arbitrarily and without due process.

Role of the Police and Security Apparatus.—The Rwandan Defense Forces (RDF) under the Ministry of Defense maintain external security. The Rwanda National Police (RNP), headed by a commissioner general and two deputy commissioners, is under the Ministry of Internal Security and is responsible for internal security. Five assistant commissioners oversee the various units, such as training, intelligence, criminal investigations, protection, and the provincial areas. The police lacked sufficient basic resources such as handcuffs, radios, and patrol cars. During the year there were some reports of police arbitrarily arresting and beating individuals, engaging in corrupt activities, and demonstrating a lack of discipline.

The National Public Prosecution Authority (formerly the Prosecutor General's Office), under the Ministry of Justice, is responsible for prosecuting police abuse cases. The police Office of Inspectorate Service, which reports directly to the RNP commissioner general, handled approximately 400 cases of police misconduct during the year. During the year the RNP fired 74 police officers for alleged corruption, abuse of power, or misconduct; 391 police officers received administrative punishment for indiscipline. Acts that rose to the level of criminal offenses were referred to the National Public Prosecution Authority, and several prosecutions were underway at year's end. The RNP advertised a toll-free number in the local radio and press and provided complaint/compliment boxes in many communities to encourage citizens to report problems regarding police and the local defense members.

During the year 330 officers received training on community relations, which included proper use of force and human rights; female officers participated in several RNP-sponsored workshops on professionalism and service provision.

Members of local communities chose community volunteers to serve in the local defense, a statutorily established law enforcement organization of approximately 20,000 members under the Ministry of Local Government that assisted police. The RNP exercised tactical control of the local defense, while local officials had responsibility for operational oversight. Local defense members performed basic security guard duties throughout the country, including maintaining a presence at gacaca proceedings. Local defense members were ordinarily unpaid and received less training than RNP officers. They did not have powers of arrest, but in practice they made arrests on orders from local administrative officers and on their own. Among its various duties, the local defense chased illegal street vendors, petty criminals, and prostitutes away from public areas. There were reports that the local defense acted with impunity when dealing with street vendors, street children, vagrants, and undocumented residents. During the year the government publicly warned the local defense against involvement in criminal activity and prosecuted local defense members who committed crimes; however, some human rights groups accused the government of not taking sufficiently strong action against some local defense members and considered the organization abusive.

Arrest Procedures and Treatment While in Detention.—The law requires that authorities investigate and obtain a warrant before arresting a suspect. Police may detain persons for up to 72 hours without a warrant, and prosecutors must bring formal charges within 10 days of arrest. Authorities sometimes disregarded these provisions during the year. At times police used nonjudicial punishment when minor criminals confessed and the victims agreed to the police officer's recommended penalty, such as a week of detention or restitution. The law permits investigative detention if authorities believe that public safety is threatened or that the accused might flee. There is bail for minor crimes (with a maximum sentence of five years); authorities may otherwise release a suspect pending trial if they are satisfied that there is no risk that the person may flee or become a threat to public safety and order. Authorities generally allowed family members prompt access to detained relatives. By law detainees are allowed access to lawyers, although they are not allowed formal representation in the gacaca process. In practice, however, the scarcity of lawyers (there were 450 attorneys in the country, of which 292 were trainees, most in Kigali) impeded access to legal representation. The government did not provide indigent persons with free access to lawyers, but a Legal Aid Forum composed of 36 organizations, including domestic and international NGOs, the Bar Association, and university law faculties, provided legal aid services to indigent and vulnerable groups. Such resources were insufficient to provide lawyers to every indigent person. The Bar Association provided 314 lawyers to clients during the year. One international NGO also provided limited access to defense counsel and provided 596 lawyers for 724 clients during the year. The law requires the government to provide minors with legal representation, which judicial observers cited as a factor in juvenile trial delays.

Police arbitrarily arrested opposition members, journalists, and members of Jehovah's Witnesses during the year (see sections 2.a., 2.c., and 3).

In January government authorities arrested Laurent Nkunda, leader of a Congolese armed group, while he was in the country. At year's end Rwandan and Congolese officials were negotiating the extradition of Nkunda, who remained under house arrest.

On several occasions police and the local defense detained street children, vendors, beggars, and undocumented nonresidents in Kigali and other larger towns and charged them with illegal street vending or "vagrancy." Authorities released adults who could produce identification and transported street children to their home districts, to shelters, or for processing into vocational and educational programs.

Despite a 2008 senate committee report that called for the closure of Kigali's Gikondo transit center for violations of detainee rights and lack of social services, the facility continued to operate as a temporary detention facility for street children, vagrants, and street vendors. Government officials asserted that they held persons for no more than one to three weeks; however, detainees sometimes waited several months before release. Authorities commonly denied access to the relatives of detainees.

There were serious problems of lengthy pretrial detention, including the detention of persons whose unresolved cases dated from 1994, a consequence of the large number of persons suspected of committing genocide who continued to be held in prisons and detention centers. The law permits the continued detention of genocide suspects long enough to allow them to face trial either in an ordinary court or in the gacaca

system. The government made significant progress in reducing the gacaca case backlog. Authorities permitted the majority of convicted prisoners (those who had confessed their genocide crimes) to return to their families, with actual prison time to be served after the suspended and community service portions of their sentences had expired.

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary, and the judiciary operated in most cases without government interference; however, there were constraints on judicial independence. Government officials sometimes attempted to influence individual cases, primarily in gacaca cases. Unlike in previous years, there were no reports that members of the executive branch called judges to discuss ongoing cases privately and to express executive preferences.

In its July 2008 report entitled *Law and Reality: Progress in Judicial Reform in Rwanda*, HRW cited continuing lack of judicial independence and concerns about basic trial rights, including the presumption of innocence, the right to present defense witnesses, the right to equal access to justice, and the right to protection from double jeopardy.

In May the Swedish Supreme Court decided to extradite a genocide suspect to Rwanda; however, the European Court of Human Rights suspended the transfer to review the case. In 2008 the three International Criminal Tribunal for Rwanda (ICTR) panels considering case transfers to Rwanda found adequate judicial independence in the country. The panels nevertheless denied case transfer, citing fair trial concerns, including inadequate witness protection and improper sentencing guidelines.

In October 2008 the Military Court in Kigali acquitted two senior RPF officers of the June 1994 killings of 15 civilians, including high officials of the Catholic Church; the case had been referred by the prosecutor for the ICTR. Two junior RPF officers who pled guilty to the crimes were given reduced sentences of eight years on grounds that the crimes were not premeditated. The prosecutor appealed the decision to a higher court, which confirmed the lower court ruling.

The constitution provides for a system of ordinary and specialized courts. Ordinary courts include the Supreme Court, the High Court, provincial courts, and district courts. Specialized courts include gacaca courts, commercial courts, and military courts.

By year's end there were 19,247 criminal and 26,364 civil cases pending in the regular courts; approximately 47,000 such cases were pending at the end of 2008.

Trial Procedures.—In the ordinary court system, the law provides for public trials, although courts closed proceedings in cases involving minors, to protect witnesses, or at the request of defendants. The law provides for a presumption of innocence, but government officials did not always adhere to this in practice. Juries are not used. Defendants have the right to be present, question witnesses used against them, and to present witnesses and evidence on their own behalf. Defendants have the right to consult with an attorney, although few defendants could afford counsel. The law provides for the right to appeal, and this provision was generally respected. Lawyers without Borders and the Bar Association continued to provide legal assistance to some indigent defendants but lacked the resources to provide defense counsel to all those in need. The law does not provide for an attorney at state expense for indigent defendants. Defendants and their attorneys have access to government-held evidence relevant to their cases. The government continued to swear in new court officers and assign them to courts across the country, but the government did not have a sufficient number of prosecutors, judges, or courtrooms to hold trials within a reasonable period of time.

The RDF routinely tried military offenders in military courts, which handed down sentences of fines, imprisonment, or both. Military courts provided defendants with the same rights as civilian courts, including an attorney at public expense, the right of appeal, and access to government-held evidence relevant to their cases. The law stipulates that military courts should try civilian accomplices of soldiers accused of crimes. As of October military courts had tried 67 civilians as co-perpetrators or accomplices of military personnel during the year.

Gacaca courts served as the government's primary judicial process for adjudicating hundreds of thousands of genocide cases. (The government estimated that adjudicating the caseload in ordinary courts would have taken decades.) Gacaca defendants are presumed innocent until proven guilty, and gacaca courts normally decide a case the day of the trial. There is no bail in the gacaca system, and defendants are informed of the charges against them during the trial, not before it. Defendants in gacaca courts can present witnesses and evidence on their own behalf, although witnesses were sometimes reluctant to testify for fear of reprisals, mainly

in the form of accusations of complicity in the alleged crimes at issue. Defendants can appeal gacaca proceedings at sector-level courts. Lawyers are not permitted to participate officially in gacaca, but they can testify as private citizens.

Genocide law is designed to encourage confessions in exchange for reduced sentences for individuals accused of genocide-related crimes other than Category I crimes (the most severe crimes, including rape, murder, genocide instigation, or playing a leadership role in the genocide). The majority of individuals charged with genocide-related crimes are classified as Category II (those who committed criminal actions such as murder or injured someone with the intent to murder) or Category III (those whose crimes involved property); these cases were either tried in gacaca courts (Category II cases) or settled through gacaca mediation (Category III cases). In 2007 the government passed legislation to lessen overall sentences and increase the suspended sentence and community service portions of those sentences. The 2007 sentencing guidelines, created to alleviate prison overcrowding, allow all persons convicted by gacaca courts to serve their community service and suspended portions of their sentences first, resulting in the release of thousands of prisoners, some of whom had been held since 1994. Category II prisoners who confess can return home and serve their jail sentences later, usually no more than one-sixth of a 15- or 20-year sentence; suspects who do not confess and are convicted may face decades in jail.

In June 2008 the law was further amended to move approximately 6,900 Category I cases—most involving rape—from ordinary courts to the gacaca system. The law also provides for the transfer of approximately 1,200 genocide Category I cases, already begun in the ordinary courts, to the gacaca courts. The law provides for the commutation of custodial sentences and replaces remaining prison terms with community service once the original community service portion of a sentence is completed.

By year's end gacaca officials reported having concluded more than 1.1 million cases. As of December, 2,261 gacaca cases remained.

In August there were 123,365 gacaca judges or "persons of integrity" elected by the community and trained in gacaca law, serving in 13,708 cell, sector, and appellate gacaca benches, or groups of judges, across the country.

Unlike in previous years, no lawyers fled the country as a result of threats or harassment by unknown persons following their defense of persons accused of genocide or related crimes.

Some gacaca judges denied defendants the right to present witnesses and ordered the imprisonment of those who questioned the impartiality of gacaca judges. Poorly qualified or trained judges and ill-defined guidelines on evidence and hearsay were problems. During the year there were reports that local gacaca officials and citizens abused the process to pursue personal matters and settle grudges unrelated to the genocide, including making false accusations to acquire land.

There were reports that government officials unduly influenced gacaca judges during the course of hearings.

Because the government has not authorized gacaca courts to consider human rights abuses allegedly committed by the RPF during the 1994 genocide, some human rights groups criticized the gacaca courts for representing a form of incomplete or one-sided justice and for being biased against those who acted on behalf of the former government. The government claimed that it had prosecuted 46 soldiers, that civil and military authorities addressed RPF abuses, and that one could not equate such abuses with the genocide. A human rights organization claimed that 36 soldiers had faced trial for crimes committed against civilians during the genocide and attributed the number to government reluctance to try RPF soldiers for such crimes. No charges were brought against RPF soldiers during the year.

Most gacaca hearings took place without incident, but violence and threats of violence—usually perpetrated by persons accused of crimes related to genocide—against genocide witnesses were serious problems. Some citizens were too frightened to testify in gacaca courts. The government reported that unknown attackers killed six genocide survivors and witnesses during the year, whereas the survivors' organization Ibuka reported 24 killings of survivors from January through December. Ordinary courts also handled the cases of hundreds of persons accused of participating in the killing, injuring, or threatening of witnesses, survivors, and judges.

During the year police processed approximately 473 cases involving such violence against survivors and witnesses, 181 of which were filed in court. Nearly all cases involved gacaca proceedings. The government asserted that the genocide ideology law was necessary to prevent a reincitement to violence, but NGO and human rights organizations criticized the law as overly broad and recommended its repeal. Unlike in the previous year, there were no reports that organized groups targeted and

killed genocide witnesses. However, the government continued to conduct criminal investigations of individuals, which resulted in the prosecution of some persons.

The government held local communities responsible for protecting witnesses and relied on the local defense, local leaders, police, and community members to protect witnesses. A task force continued efforts to monitor those genocide survivors deemed most at risk and genocide suspects considered most likely to commit violent attacks. During the year it increased joint patrols in rural areas by survivors and security personnel; used preventive detention of genocide suspects to prevent attacks deemed imminent by security officials; expanded hotlines; and expedited gacaca hearings for those cases deemed most likely to involve the risk of violence against survivors and witnesses.

Ibuka continued to call for increased cooperation among gacaca courts, police, ordinary courts, and mediators, and for the creation of a survivors' compensation fund; however, unlike in previous years, it did not criticize the government for failing to prevent survivor killings.

Some analysts and human rights observers voiced concern that witnesses might have given false testimony in a sizable number of gacaca cases, despite penalties for such conduct. Observers also expressed concern that some suspects confessed to avoid lengthy prison terms. Unlike in the previous year, there were no reports that some persons had been tried in both ordinary and gacaca courts for the same crimes.

Although the vast majority of persons facing gacaca charges remained in the country, in September a group of more than 300 genocide suspects fled to Burundi claiming persecution in Rwanda (see section 2.d.). Government officials claimed that most persons fled due to pending gacaca cases, not persecution.

The ICTR, based in Tanzania, continued to prosecute genocide suspects during the year (see section 5).

Political Prisoners and Detainees.—Local human rights NGOs reported that local officials briefly detained some individuals who disagreed publicly with government decisions or policies.

Former transport minister Charles Ntakirutinka was sentenced to 10 years' imprisonment in 2004 in a trial that did not meet international standards; he was charged with incitement of civil disobedience, formation of a criminal association, and embezzlement of public funds. Ntakirutinka and former president Bizimungu, who was released in 2007, had sought to establish the Party for Democratic Renewal. The government permitted the ICRC access to Ntakirutinka.

Civil Judicial Procedures and Remedies.—The judiciary was generally independent and impartial in civil matters. There are mechanisms for citizens to file lawsuits in civil matters, including violations of their constitutional rights. The Office of the Ombudsman processes claims of judicial wrongdoing on an administrative basis. There continued to be problems enforcing domestic court orders.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and law prohibit such actions, and the government generally respected these prohibitions in practice; however, there were some reports that the government monitored homes and telephone calls.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of speech and of the press "in conditions prescribed by the law"; however, the government at times restricted these rights. The government continued to intimidate and arrest independent journalists who expressed views that were deemed critical of the government on sensitive topics or who were believed to have violated law or journalistic standards. The government also suspended, and subsequently reinstated, a media outlet. Numerous journalists practiced self-censorship.

The law prohibits the propagation of discrimination or sectarianism based on "ethnic, regional, racial, religious, language, or other divisive characteristics." Public incitement to what is commonly termed divisionism is punishable by up to five years in prison, heavy fines, or both.

Individuals could criticize the government publicly or privately on most topics; however, the laws prohibiting divisionism, genocide ideology, and genocide denial continued to discourage citizens from expressing viewpoints that might be construed as promoting societal divisions. Other statutes forbid "contempt for the Head of State of Rwanda." During the year the expression of such viewpoints sometimes resulted in harassment or intimidation.

In August the government passed a new media law called the Law on Media. Provisions in the new law grant the Media High Council the power to suspend newspapers, increase the amount of capital required to start new media outlets, impose

criminal penalties on journalists who incite discrimination or show contempt to the president, and require journalists to reveal their sources when authorities deem it necessary to carry out criminal investigations or proceedings. The law also requires journalists to have either an associate's degree in journalism or communication, a certificate obtained from an institute of journalism and communication, or a university degree in another field with training in journalism. Journalists without one of these qualifications must obtain them within five years to continue in their positions.

There were both private and government-owned newspapers, published in English, French, and Kinyarwanda. The *New Times*, an English-language paper with close ties to the government and whose shareholders reportedly included senior government officials, was the only daily newspaper. There were 67 newspapers, journals, and other publications registered with the government, although fewer than 20 published regularly. Sporadically published independent newspapers—including *Focus*, *Umuseso*, and *Umuwugizi*—maintained positions contrary to or critical of the government. The *New Times* also sometimes criticized government policies and officials. Journalists from the BBC's Kinyarwanda-language service reported being denied access to cover certain government events and difficulty reaching officials between January and June. As of June BBC Kinyarwanda journalists reported receiving invitations to government events and interviews with government officials.

Unlike in the previous year, the government did not expel members of the press from the country for articles deemed in violation of the divisionism statute, the press law, or other articles of the criminal code; however, journalists were expelled from public events. Police also detained journalists.

During a February 14 lecture given by High Court President Johnston Busingye to police cadets, police expelled two journalists from the *New Times* who had been invited to cover the event. Police subsequently forced the journalists to delete their photographs when they were unable to produce their letters of permission from the Ministry of Internal Security to attend the event. The lecture included discussion of human rights in policing.

In August a gacaca court in Butare sentenced Amani Ntakandi, a journalist for the biweekly *Rushyashya*, to three months in prison for taking photos of an August 5 gacaca trial. Ntakundi, who had a permit to take notes issued by the national agency for Gacaca courts, claimed he was unaware that he needed separate permission to take photos. Authorities released him in November.

The law imposes criminal sanctions on the media for libel and other forms of defamation. In December authorities arrested, then released, *Umuseso* editor Didas Gasana on charges of defamation and insult after he published a story alleging an affair between the minister of cabinet affairs and the mayor of Kigali.

In August the government charged *Umuwugizi* editor and journalist Jean Bosco Gasasira, one of three journalists expelled from a government event in May 2008, with slander, abuse, defamation, and invasion of privacy after he published two articles that accused a government official of having an extramarital affair. The judge found Gasasira guilty of defamation and invasion of privacy and fined him; Gasasira appealed the decision in December. In reaction to a media question during a July 27 press conference, the minister of information, Louise Mushikiwabo, announced that the "days of destructive media are numbered." Gasasira, who was attacked by unknown assailants in 2007 after *Umuwugizi* published articles that criticized the government, claimed that he had been followed during the August trial by men whom he believed were state security agents.

In August the Media High Council recommended that the government suspend the weekly *Umuseso* for three months following a July article that called President Kagame a dictator and compared him to former president Habyarimana; however, no action had been taken against the newspaper by year's end. According to the Committee to Protect Journalists, Minister of Information Mushikiwabo explained that she could not understand how anyone would make such a comparison, saying, "one man started the genocide, while the other ended it." Police and immigration officials seized the shipment of a subsequent edition of *Umuseso* at the country's border with Uganda (where it was printed), but released it several hours later. *Umuseso* continued to publish.

In May 2008 government officials expelled three local journalists—Charles Kabonero of *Umuseso*, Jean Bosco Gasasira of *Umuwugizi*, and Jean Gaubert Burasa of *Rushyasha*—from a government event celebrating World Press Freedom Day. It subsequently excluded Bonaventure Bizumuremyi of *Umuco* and Kabonero's replacement from covering government events. At year's end Bizumuremyi and Kabonero remained outside the country. The government later began allowing *Rushyasha*'s reporters to cover government events.

The case against Umuco editor Bizumuremyi remained pending; Bizumuremyi fled the country in March 2008 after his newspaper ran side-by-side photographs of President Kagame with Adolf Hitler and an article equating the two. The government had not suspended Umuco, but the newspaper had not published since October 2008. In 2007 the government began prosecuting Bizumuremyi for defamation, divisionism, and disobeying public authorities.

The appeal of the one-year suspended sentence of local journalists Charles Kabonero and Didas Gasana of Umuseso, who were convicted in February 2008 of libel for critical articles written about a prominent businessman, remained pending at year's end.

Critics continued to criticize the semiautonomous Media High Council for inhibiting rather than promoting press freedom.

Unlike in previous years, government officials did not pressure government institutions and local businesses to withhold advertising from newspapers critical of the government, which affected newspapers' revenues.

The law authorizes private radio and TV broadcasting, subject to the approval of the government, although some complained that the licensing fees were prohibitively high. The government authorizes the licensing of private television stations; however, it owned and operated the country's only television station. In addition to government-owned and operated Radio Rwanda, there were six community radio stations, five religious stations, one university station, and six independent FM radio stations broadcasting during the year; they offered mostly music and talk shows. Foreign media groups, including Voice of America, BBC, and Deutsche Welle, broadcast throughout the year and were among the few stations in the country that regularly broadcast independent news.

Radio stations broadcast criticism of government policies during the year, including through the use of popular citizen call-in shows.

In April the Ministry of Information suspended the BBC's Kinyarwanda radio service after it broadcast quotes excerpted from an episode of *The Roots of the Origin*, a weekly radio program focused on conflict in the Great Lakes region; the quotes were considered inflammatory given the 1994 genocide. The government charged that the quotes were "likely to obstruct national unity and reconciliation efforts." Following direct discussions between the government and the BBC, the government revoked the suspension. However, in June Minister of Information Mushikiwabo asked the BBC to reaffirm its commitment to balanced and accurate editorial content. According to the *New Times* daily, the minister "warned that if the station did not change the way it dealt with the 1994 genocide, broadcasts in Kinyarwanda would be "definitively and unconditionally" suspended.

In some cases unidentified individuals harassed and threatened journalists. Some journalists reported receiving text messages and phone calls from unidentified persons harassing them because of critical stories they had written or calling them enemies of the country. Additionally, some journalists reported that unidentified vehicles followed them.

Internet Freedom.—There were no government restrictions on access to the Internet. There were reports that the government monitored e-mail, but not Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Internet cafes were common and used regularly in the largest towns, although the Internet was generally unavailable in rural areas, where the majority of the population lives. According to International Telecommunication Union statistics for 2008, approximately 3 percent of the country's inhabitants used the Internet.

Academic Freedom and Cultural Events.—The government generally did not restrict academic freedom or cultural events; however, on September 30, police arrested university lecturer Dieudonne Nyamulinda, from Eastern Province, on charges of insulting the president and denying the genocide; Nyamulinda remained in prison awaiting trial at year's end. Unlike in the previous year, there were no reports that authorities suspended secondary and university students for divisionism or engaging in genocide ideology.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The constitution and law provide for freedom of assembly, and the government generally respected this right in practice; however, there were some exceptions. Authorities legally may require advance notice for outdoor rallies, demonstrations, and meetings.

Authorities prevented political party organizers from meeting. During the year the PS-Imberakuri party attempted to hold four assemblies to register as a political party, but police dispersed two of the assemblies due to procedural errors; the party

was unable to secure a notary for the other two. PS-Imberakuri held a successful assembly in June and became an official political party in July.

In April the mayor of Nyarugenge District cancelled the Republican Democratic Alliance/Legacy of Agathe Uwilingiyimana party (ADRUIUA), mistakenly believing they needed authorization by local officials. ADRUIUA attempted to hold another assembly, but did not have enough attendees and had not registered as a political party by year's end.

Authorities cancelled three assemblies of the Democratic Green Party of Rwanda (DGPR or Green Party), including two for procedural errors and one to a disruption by an attendee. The Green Party also found it difficult to secure a notary for its assemblies, and it was still awaiting authorization from police to hold another assembly at year's end.

The government continued to limit the type of locations where religious groups could assemble, at times citing municipal zoning regulations as the reason.

Freedom of Association.—The constitution provides for freedom of association; however, the government limited this right in practice. Private organizations were required to register, and the government generally granted licenses without undue delay; however, there were some exceptions. The government impeded the formation of new political parties and restricted political party activities (see section 3).

The government generally imposed difficult and burdensome NGO registration and renewal requirements, as well as time-consuming requirements to submit annual financial and activity reports.

c. Freedom of Religion.—The constitution provides for freedom of religion, and other laws and policies contributed to the generally free practice of religion; however, there were some exceptions. Local government officials continued to arrest, detain, and beat members of Jehovah's Witnesses for refusing to participate in security patrols. Unlike in the previous year, no Jehovah's Witnesses teachers were fired for refusing to participate in government-sponsored solidarity camps.

The law requires that all nonprofit organizations, including churches and religious organizations, register with the Ministry of Local Government and the Ministry of Justice to acquire the status of "legal entity." During the year the government was drafting a new law on religious organizations and did not accept new applications.

The government allowed religious groups to hold services only at established places of worship and banned the use of private homes for this purpose. Unlike in the previous year, there were no reports that police arrested persons who held night prayers in their homes.

In May and June soldiers beat members of Jehovah's Witnesses for refusal to participate in armed night patrols. During the year police arrested and detained members of Jehovah's Witnesses for an average of six days as a result of their failure to participate in nighttime security patrols. Such arrests occurred despite a 2005 government ruling that the National Public Prosecution Authority had wrongly applied a law requiring some form of community work to religious groups.

In August the High Court of Musanze summoned a 16-year-old Jehovah's Witness and charged him with disturbing national peace; the youth had been expelled from another school in February 2008 for refusing to sing the national anthem. The judge acquitted the youth at his October 8 trial.

Of the 112 children of Jehovah's Witnesses who were expelled from school in 2008 for refusing to sing the national anthem, 97 had been readmitted by September.

In April 2008 the government fired 215 Jehovah's Witnesses teachers for failing to participate in government-sponsored solidarity camps on religious grounds. As of September, 119 remained unemployed, 48 had gone to the DRC, 47 found different employment, and one had returned to teaching.

Government officials presiding over wedding ceremonies generally required couples to take an oath while touching the national flag, a practice to which members of Jehovah's Witnesses objected on religious grounds. This practice made it difficult for church members to marry as they had to find officials willing to perform the ceremony without the flag requirement. Some members found that placing their hands on a bible on top of the flag was an acceptable alternative.

During the year government authorities and Jehovah's Witnesses leaders continued to address problems and misunderstandings through a collaborative mechanism begun in 2005. However, church leaders reported little official willingness to respond to their concerns.

Societal Abuses and Discrimination.—There was a very small Jewish community, consisting entirely of expatriates, and there were no reports of anti-Semitic acts.

The government endorsed the opening of Agahozo Shalom Youth Village during the year, a residential community for orphaned teenagers sponsored by an American Jewish organization, which teaches tolerance and acceptance of all persons.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution and law provide for freedom of movement, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, and returning refugees. The law prohibits forced exile, and the government did not use it.

During the year the country accepted 15,452 citizens returning from other countries, all but 5,702 returning from the DRC; most were settled in their districts of origin. The government set a deadline of July 31, later extending it to August 31, for the return of the approximately 20,000 Rwandan refugees and asylum seekers from Uganda; approximately 5,000 returned. The government worked with the UNHCR and other aid organizations to assist the resettled returnees. Government mediators handled land disputes resulting from the large number of returnees.

The government continued to accept former combatants who returned to the country from the DRC as part of the ongoing rapprochement between the two countries. A total of 8,284 former combatants from armed groups in the DRC, including 715 former child soldiers, had been demobilized and peacefully resettled in the country since the beginning of the disarmament, demobilization, and reintegration program in 2001. During the year the government demobilized 1,152 adult former combatants from armed groups and rehabilitated approximately 90 children, 49 of whom arrived during the year. It also demobilized 1,910 RDF soldiers during the year. With international support, the government's Demobilization and Reintegration Commission, the lead agency for the reinsertion of returned former combatants, placed such persons in a three-month reeducation program at a demobilization and reintegration center in Northern Province. There also was a center solely for former child combatants in Eastern Province. After the three-month reeducation period, each adult former combatant received approximately 60,000 Rwandan francs (\$108) and permission to return home; several months later, each received an additional 120,000 Rwandan francs (\$216). Returnees accused of committing genocide and who were at least 14 years old at the time of the genocide faced gacaca trials.

Internally Displaced Persons (IDPs).—The government demolished homes and businesses in Kigali as part of the city's master plan, and some residents claimed they received insufficient compensation for their property. Unlike in the previous year, there were no complaints of inadequate notice given to residents to vacate their properties.

Protection of Refugees.—The country is a party to the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, as well as the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa; the government has established a system for providing protection to refugees. The constitution recognizes the right to asylum "under conditions determined by law," and there was a law in place to recognize refugees. However, the government was slow to implement refugee registration procedures, and most persons seeking asylum or refugee status had to seek private assistance (in finding housing, food, and other supplies) while awaiting formal recognition by the government.

In the past the government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion; however, on June 2, soldiers and police forcibly closed the Kigeme refugee camp, which had sheltered approximately 2,000 Burundian refugees. As of May 31, the date agreed upon by the UNHCR and the governments of Rwanda and Burundi for closing the camp, approximately 1,500 of the refugees had voluntarily returned home. Of the remaining 500 refugees, the UNHCR had slated 70 for resettlement, leaving approximately 440 persons. On June 2, police and soldiers rounded up these remaining refugees and forcibly transported them to Burundi. The UNHCR criticized the action.

The UNHCR, with government support, continued to assist refugees and asylum seekers. As of November 30, it had provided temporary protection to 54,004 persons, mostly refugees from the DRC.

Some refugees seeking third-country resettlement reportedly had difficulty obtaining exit visas from the government. Lack of government-issued identity cards also created difficulties for refugees when they were outside the camps.

In September a group of more than 300 genocide suspects fled from Rwanda to Burundi claiming persecution. Government officials claimed that most fled due to pending gacaca cases, not persecution.

Unlike in the previous year, there were no reports that representatives of a DRC-based armed group recruited children and adults from Rwandan refugee camps to be combatants or laborers. The government noted that it was difficult to control camps that had no fences and populations that regularly crossed borders. Refugees had access to primary schools and health care, but few were able to find jobs, although there were no laws denying them access to employment.

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

The constitution and law provide for the right of citizens to change their government peacefully; however, this right was effectively restricted.

Elections and Political Participation.—Chamber of Deputies elections in September 2008 were peaceful and orderly, with a heavy turnout; however, observers noted irregularities in the electoral process. The RPF won 42 of 53 directly elected seats (with 79 percent of the vote), the Social Democratic Party (PSD) seven seats (13 percent), and the Liberal Party (PL) four (7.5 percent). The councils of women, youth, and persons with disabilities elected the other 27 chamber members. Nine political parties contested the elections; six of them had joined in coalition with the RPF rather than fielding independent lists of candidates.

National Electoral Commission (NEC) rulings restricted the ability of the PSD and the PL to effectively disseminate their messages, allowing the RPF to dominate the 22-day electoral campaign. The media devoted the bulk of its coverage to the RPF. There were credible reports of local government interference with PL and PSD rallies and meetings, and security forces briefly detained several campaign workers.

According to observers, many voting stations opened early, did not make proper use of forms, and did not initially seal ballot boxes. NEC and other government officials often prevented observers from monitoring the ballot counting above the polling station and polling center levels (the first two levels). The Civil Society Election Observation Mission observed in its Statement of Preliminary Findings that “in a significant proportion of cases, it was not possible to confirm the accuracy of consolidated results at any stage beyond polling center consolidation.”

In 2003 President Paul Kagame won a landslide victory against two independent presidential candidates, receiving 95 percent of the vote in a largely peaceful but seriously marred election.

The constitution provides for a multiparty system but offers few rights for parties and their candidates. Parties were not able to operate freely, and parties and candidates faced legal sanctions if found guilty of engaging in divisive acts, destabilizing national unity, threatening territorial integrity, or undermining national security. The government’s enforcement of laws against genocide ideology or divisionism discouraged debate or criticism of the government and resulted in brief detentions and the holding of one political prisoner, former minister Ntakirutinka.

All political organizations were constitutionally required to join the Forum for Political Organizations, which continued to promote consensus at the expense of political competition, according to observers. Independent political parties must demonstrate membership in every district, reserve at least 30 percent of a party’s leadership for women, and provide a written political program signed by a notary in order to register.

The government registered the PS-Imberakuri political party during the year; however, the registration process was cumbersome. The government impeded the registration of the newly formed Green Party. In September the Green Party had to cancel a planned assembly because a public notary was not available. In October, after an unidentified man disrupted a Green Party assembly, police canceled the meeting, citing security concerns. In November the Green Party applied for but was unable to obtain police clearance to hold another planned assembly. By year’s end the Green Party had not succeeded in registering as a political party.

Police arbitrarily arrested opposition members. For example, in September local authorities arrested a PS-Imberakuri member for political campaigning at school and breach of public order after he reportedly spoke to students about his party. Police released him without charge after three days; however, district authorities in Ruhango subsequently dismissed him from his teaching position.

During the year authorities prevented political party organizers from meeting (see section 2.b.).

In accordance with the constitution, which states that “a political organization holding the majority of seats in the Chamber of Deputies may not exceed 50 percent

of all the members of the Cabinet,” independents and members of other political parties held key positions in government including that of the prime minister.

The constitution requires that at least 30 percent of the seats in parliament be reserved for women. At year's end there were seven women in the 26-seat Senate and 45 women in the 80-seat Chamber of Deputies. There were nine women in ministerial positions, representing 36 percent of cabinet positions.

There was one member of the Twa ethnic group in the 26-seat Senate, but none in the Chamber of Deputies.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government implemented these laws with increasing effectiveness; however, corruption remained a problem. During the year authorities prosecuted 404 cases of corruption and embezzlement, some of which involved senior officials, and 169 cases were pending.

For example, in December the court sentenced Vincent Gatwabuyege, former permanent secretary in the Ministry of Infrastructure, to three years in prison for embezzlement of state funds. In November the court sentenced Theoneste Mutsindashyaka, former state minister for primary and secondary education, to one year in prison for violating tendering procedures for construction of Eastern Province headquarters. In August the court charged former parliamentarian Bikoro Munyanganizi with corruption and sentenced him to two years in prison. Munyanganizi appealed, and in December the court acquitted him on the corruption charges but sentenced him to one year in prison for tax evasion.

Following its 2008 annual report, the ombudsman's office conducted several dozen investigations into judicial corruption and provided them to the National Public Prosecution Authority. Authorities dismissed several judges and court registrars for abuse of office or corruption after investigations by the Judicial Council, a body charged with oversight and discipline of the judicial branch.

The Office of the Auditor General worked to prevent corruption, including through investigations of improper tendering practices at government ministries. The government's Office of the Ombudsman had an active good governance program and several anticorruption units that worked at the local level. Prior to acquiring the authority to prosecute cases in October, the office recommended cases to the National Public Prosecution Authority, and during the year the office pursued several hundred corruption cases, the majority of which involved misuse of public funds. During the year the police and National Public Prosecution used the auditor general's annual report to pursue investigations into the conduct of government businesses.

The law provides for annual reporting of assets by public officials, but not public disclosure of those assets; most public officials complied.

In January the government announced the formation of an anticorruption council, composed of the ombudsman's office, the National Public Prosecution Authority, the national police commissioner, and several ministries. During the year the council established a hotline for reporting cases of corruption, made corruption cases a priority in the judicial system, and shared information during quarterly meetings.

The law does not provide for access to government information, and it remained difficult for citizens and foreigners, including journalists, to obtain access to government information. However, the annual budget was available publicly, both in electronic form and in hard copy.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A variety of international NGOs and several independent domestic human rights groups operated in the country, investigating and publishing their findings on human rights cases. Some domestic NGOs noted that relations with the government were generally positive; however, others indicated that the government was intolerant of criticism and suspicious of local and international human rights observers, often rejecting their criticism as biased and uninformed. During the year some NGOs expressed fear of the government and self-censored their activities and comments. International and local NGOs reported unfettered access to the country's prisons, following a formal application process.

Domestic NGOs LIPRODHOR and LDGL focused on human rights abuses. Other local NGOs dealt with at least some human rights issues and conducted activities such as lobbying the legislature to provide more protection for vulnerable groups, observing elections, raising awareness of human rights among youth, and providing explanations of legislation, legal advice, and advocacy. LIPRODHOR employed its 180 members (down from 400 last year) and 106 district volunteers to conduct field investigations of alleged abuses. Both LIPRODHOR and the LDGL published their

findings and discussed them with government officials—including on sensitive cases—and raised concerns about false accusations in gacaca trials. A few domestic NGOs produced publications regularly on general human rights issues.

The law on nonprofit associations permits government authorities to review budgets and the hiring of personnel. NGOs often found the registration process difficult; however, unlike in the previous year, no domestic human rights NGOs were unable to register. To obtain a provisional six-month approval, domestic NGOs must present their objectives, plan of action, and financial information to local authorities of every district in which the organizations intend to work. After obtaining provisional agreement, domestic NGOs must apply for registration (legal recognition) each year with the Ministry of Justice. If a local NGO is initially denied registration, the NGO sometimes must correct and resubmit its registration documents. The government also required domestic NGOs to submit financial and activity reports each year to the national government. NGOs complained that these requirements and near-compulsory participation in the Joint Action Forum strained their limited resources. While there was no legal requirement to contribute financially to the forum, some organizations felt pressured to do so.

The government also requires international organizations to register each year and to obtain yearly provisional authorization from the local governments of every district in which the organizations intend to work, followed by final authorization from the requisite ministry. This requirement made registration difficult for some organizations. The government also requires international organizations to submit yearly reports with the relevant local governments and national level ministries. The paperwork involved was burdensome.

The government required civil society groups to submit quarterly financial statements and lists of staff and assets in each of the districts where projects were implemented.

A progovernment NGO platform group, the Civil Society Platform, continued to manage and direct some NGOs through the use of umbrella groups, which theoretically aggregated NGOs working in particular thematic sectors; however, many observers believed that the government controlled some of these umbrella NGOs.

There were reports that authorities pressured some individuals affiliated with NGOs to provide information on their activities.

Government officials sometimes criticized domestic NGOs that sought assistance from international NGOs and the diplomatic corps in resolving disputes with the government.

Unlike in the previous year, there were no reports that government authorities harassed local NGOs.

The government generally cooperated with international NGOs; however, it frequently criticized HRW as being inaccurate and biased and reportedly conducted surveillance on some international NGOs.

Unlike in the previous year, the government did not deny visas to NGO personnel.

The National Human Rights Commission (NHRC) enjoyed the government's cooperation but did not have adequate resources to investigate all reported cases of violations and remained biased towards the government, according to some observers.

The Office of the Ombudsman operated with government cooperation and took action on cases of corruption and other abuses, including of human rights (see sections 1.e. and 3).

The ICTR in Tanzania continued to prosecute genocide suspects during the year. Since 1994 the ICTR had completed 49 cases, with 41 convictions and eight acquittals. At year's end there were 26 individuals on trial, two persons awaiting trial, and 11 fugitives. Despite continued government efforts to prepare its facilities and legal system to meet international standards, the ICTR has rejected five applications to transfer genocide suspects to Rwanda for trial; nine cases remained under appeal at year's end.

The ICTR had tried no RPF members by year's end. The government continued to claim that calls by human rights groups or opposition figures for investigations of alleged RPF war crimes constituted attempts to equate the genocide with abuses committed by RPF soldiers who stopped the genocide.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution provides that all citizens are equal before the law, without discrimination on the basis of ethnic origin, tribe, clan, color, sex, region, social origin, religion or faith opinion, economic status, culture, language, social status, or physical or mental disability. The government generally enforced these provisions; however, problems remained.

Women.—The law criminalizes rape and spousal rape, and the government handled rape cases as a priority within its courts and tribunals. Penalties for rape ranged from 10 years' to life imprisonment; penalties for spousal rape ranged from six months' to two years' imprisonment. During the year police investigated 2,356 cases of rape, the court tried 3,152 cases, and 1,487 new rape cases were filed in court; 2,020 cases were pending at year's end, compared to 3,685 pending cases at the end of 2008. In recent years those convicted of rape generally received prison sentences of between one year and life. Rape and other crimes of sexual violence committed during the genocide are classified as Category I genocide crimes.

Domestic violence against women, including wife beating, was common. Figures from the National Institute of Statistics indicated that 31 percent of women over age 15 were victims of domestic violence, and 10.2 percent of women experienced domestic violence during pregnancy. A law on the prevention and punishment of gender-based violence came into effect in April and provides for imprisonment of six months to two years for threatening, harassing, or beating one's spouse. Cases normally were handled within the context of the extended family. Between January and November police investigated 2,108 cases of gender-based violence. Police headquarters in Kigali had a hotline for domestic violence, an examination room, and trained counselors who provide access to a police hospital for more intensive interventions. In December 2008 the RDF cooperated with local authorities in Northern Province to increase reporting and support efforts against gender-based violence in 41 specific locations. Each of the 62 police stations nationwide had its own gender desk, trained officer, and public outreach program. The national gender desk in Kigali also monitored nationwide investigations and prosecutions into gender-based violence. In July the government—in partnership with the RNP, UN Children's Fund, UN Development Fund for Women, and UN Population Fund—opened the Isange Center, which provided medical, psychological, and police assistance to victims of domestic violence.

Prostitution is illegal but was prevalent.

The law prohibits sexual harassment by employers and provides for penalties of two to five years' imprisonment and fines from 100,000 to 200,000 Rwandan francs (approximately \$180 to \$360). Sexual harassment was common.

The government respected the basic right of couples and individuals to decide freely and responsibly the number, timing, and spacing of their children. The government made available reproductive health services and contraceptives for all citizens, regardless of age, sex, and ethnicity. More than 90 percent of the population had some form of health insurance, and there was no charge for the poorest of the population. There was a small copayment for obstetric services; this fee was waived for women who completed the recommended four antenatal care visits. Women and men received equal access to diagnostic services and treatment for sexually transmitted infections. According to the Population Reference Bureau, the government provided 73 percent of available contraceptives. Overall, the unmet need for family planning was 38 percent, a statistic that reflected rural access issues, lack of accurate information, and religious reasons.

The law allows women to inherit property from their fathers and husbands, and couples may make their own legal property arrangements; however, women had serious difficulties pursuing property claims. Since the 1994 genocide, which left numerous women as heads of households, women assumed a larger role in the formal sector, and many operated their own businesses. Despite the election in September 2008 of a Chamber of Deputies with a female majority, women continued to have limited opportunities for education, employment, and promotion. Women performed most of the subsistence farming in the country. The government-funded Women's Council served as a forum for women's issues and consulted with the government on land, inheritance, and child protection laws. The minister of gender and family promotion in the Office of the Prime Minister headed government programs to address women's issues and coordinated programs with other ministries, police, and NGOs. The government provided scholarships for girls in primary and secondary school and loans to rural women. A number of women's groups actively promoted women's concerns, particularly those of widows, orphaned girls, and households headed by children. In January the government opened the Rwanda Gender Observatory, a gender-focused institution that tracks the mainstreaming of gender equality and women's empowerment throughout all sectors of society and collects gender-disaggregated data to inform policy processes.

Children.—Citizenship is derived from one's parents. Children born to two Rwandan parents automatically receive citizenship, and children with one Rwandan parent must apply for citizenship before turning 18. Children born in Rwanda to unknown or stateless parents automatically receive citizenship. Births are registered

at the sector level upon presentation of a medical birth certificate. There were no reports of unregistered births leading to denial of public services.

Primary education is compulsory. Parents of students are not required to pay fees through nine years of basic education; however, most parents were required to pay unofficial fees to support basic school operations. According to 2008 World Bank statistics, 54 percent of children completed primary school. Girls accounted for 51 percent of children enrolled in primary school and 49 percent of children enrolled in secondary school. Female enrollment at higher education levels lagged behind that of males.

Statistics on child abuse were unavailable; however, such abuse was common.

There were no statistics available on child marriage; however, it occurred in rural areas.

Due to the genocide and deaths from HIV/AIDS, there were numerous households headed by children, some of whom resorted to prostitution to survive. The law provides that any sexual relations between an adult and a child under 18 is considered rape and is punishable by between 20 years to life in prison. Between January and July prosecutors filed 2,045 rape cases of minors in regular courts; judges acquitted 632 of those accused and sentenced 110 to life in prison.

During the year the government conducted a high-profile public campaign to discourage intergenerational sex and sexual procurement.

The law prohibits child pornography with penalties of between five and 10 years in prison and a fine of 200,000 to 500,000 Rwandan francs (approximately \$360 to \$900).

The government continued to support the Muhazi rehabilitation center for children in Eastern Province, which provided care and reintegration preparation during the year for approximately 90 children, who had previously served as soldiers in the DRC. During the year 75 of the former child soldiers were reunited with their families.

There were numerous street children throughout the country. Authorities rounded up street children and placed them in foster homes or government-run facilities, including Gikondo transit center, where street children, vagrants, and street sellers were held in substandard conditions (see section 1.d.). The government also supported 35 child-care institutions across the country that provided shelter, basic needs, and rehabilitation for approximately 2,600 street children. The government worked with international organizations and NGOs to provide vocational training and psychosocial support to street children, to reintegrate them into their communities, and to educate parents on how to prevent their children from becoming street children.

Trafficking in Persons.—While there was no specific antitrafficking law, laws against slavery, prostitution by coercion, kidnapping, rape, and defilement were available to prosecute traffickers. Additionally, the law on prevention and prosecution of gender-based violence included an article on gender-based human trafficking with penalties of 15 to 20 years' imprisonment and a fine of 500,000 to 2,000,000 Rwandan francs (approximately \$900 to \$3,600). There were reports that persons were trafficked from and within the country during the year.

The country was a source for small numbers of women and children trafficked for sexual exploitation and domestic labor. Some children also were trafficked to Uganda, Tanzania, and Kenya for agricultural labor or use in commercial sexual exploitation.

The largest trafficking problem was underage prostitution. Small numbers of impoverished girls, typically between ages 14 and 18, used prostitution as a means of survival; some were exploited by loosely organized prostitution networks.

Due to the genocide and deaths from HIV/AIDS, numerous children headed households, and some of these children resorted to prostitution or may have been trafficked into domestic servitude. While police reportedly conducted regular operations against prostitution, no statistics were available on prosecutions of those who utilized or exploited children in prostitution.

Traffickers included individuals and small, loosely organized prostitution networks. There were reports of such networks in secondary schools and universities. In some instances older students offered vulnerable younger girls room and board, eventually pushing them into prostitution to pay for their keep.

In November 2008 Ugandan authorities arrested a Rwandan national in Uganda for attempting to sell a 15-year-old boy she had trafficked from Rwanda.

Unlike in previous years, there were no reports that children were recruited from refugee camps for soldiering in eastern DRC and forced labor.

The RNP is the lead government agency responsible for combating trafficking of persons.

Authorities investigated several cases and prosecuted traffickers using laws against prostitution by coercion, slavery, kidnapping, rape, and defilement; however, no traffickers were convicted during the year. If convicted, individuals face penalties including imprisonment.

Several investigations into other trafficking cases continued at year's end, including two cases involving adults caught at borders with children.

When the government dismantled prostitution rings, it offered women rehabilitation programs that included employment training. There were no shelters specifically for trafficking victims.

The government provided training on combating sex crimes and crimes against children as part of the police training curriculum. During the year the police offered specialized training for police cadets in recognizing trafficking, particularly trafficking involving children. The government also monitored immigration and emigration patterns, as well as border areas that were accessible by road. The RNP conducted sensitization programs against prostitution and warned hotel owners against allowing underage girls to frequent their hotels.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The law specifically prohibits discrimination against persons with disabilities in regard to employment, education, and access to social services, and the government generally enforced these provisions. The constitution prohibits discrimination on the basis of physical or mental disability. The law also mandates access to public facilities, accommodations for taking national exams, provision of medical care by the government, and monitoring of implementation by the NHRC; the government generally implemented these provisions. The Federation of the Associations of Persons with Disabilities appointed one member of the Chamber of Deputies.

In March 2008 the National University of Rwanda began admitting blind students, becoming the second public higher education institution (following the Kigali Institute of Education) to do so.

National/Racial/Ethnic Minorities.—Long-standing tensions in the country culminated in the 1994 state-orchestrated genocide, in which Rwandans killed up to a million of their fellow citizens, including approximately three-quarters of the Tutsi population. Following the killing of the president in 1994, an extremist interim government directed the Hutu-dominated national army, militia groups, and ordinary citizens to kill resident Tutsis and moderate Hutus. The genocide ended later the same year when the predominantly Tutsi RPF, operating out of Uganda and northern Rwanda, defeated the national army and Hutu militias, and established an RPF-led government of national unity. This government included members of eight political parties and ruled until the 2003 elections.

Since 1994 the government has called for national reconciliation and abolished policies of the former government that created and deepened ethnic cleavages. The government removed all references to ethnicity in written and nonwritten official discourse and eliminated ethnic quotas for education, training, and government employment. The constitution provides for the eradication of ethnic, regional, and other divisions in society and the promotion of national unity. Some individuals continued to accuse the government of favoring Tutsis—particularly English-speaking Tutsis—in government employment, admission to professional schooling, recruitment into or promotion within the army, and other matters.

French-speaking citizens charged that the 2008 government decree to replace French with English in 2010 as the language of instruction from elementary school grade three onwards favored English-speakers.

Indigenous People.—Beginning in the 1920s, colonial authorities formally assigned “racial” categories to all citizens and required them to carry identity cards indicating their designated ethnicity—Hutu, Tutsi, or Twa. Government authorities continued this practice until after the 1994 genocide. The postgenocide government banned identity card references to ethnicity and prohibited social or political organization based on ethnic affiliation as divisionist or contributing to genocide ideology. As a result the Twa, purported descendants of Pygmy tribes of the mountainous forest areas bordering the DRC and numbering approximately 33,000 to 35,000, lost their official designation as an ethnic group. The government no longer recognizes groups advocating specifically for Twa needs, and some believed these government policies denied them their rights as an indigenous ethnic group. The government recognized the Community of Indigenous Peoples of Rwanda (CAURWA) and the Ligue pour la Promotion des Potiers du Rwanda (LIPOPORWA), organizations that focused primarily on Twa community needs, as advocates for the most marginalized, rather than organizations that support an indigenous ethnic group. Despite official

recognition of CAURWA and LIPOPORWA and ongoing joint health and education projects with the government, most Twa continued to live on the margins of society with very limited access to health care or education. The Twa generally continued to be treated as second-class citizens.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Some members of the LGBT community reported societal discrimination and abuse during the year. According to a 2008-09 study conducted in Kigali, gay men claimed to have been verbally and physically abused in workplaces, bars, prisons, and elsewhere in public.

Other Societal Violence or Discrimination.—Discrimination against persons living with HIV/AIDS occurred, although such incidents remained rare. The government actively supported public education campaigns on the issue, including the establishment of HIV/AIDS awareness clubs in secondary schools and making public pronouncements against the stigmatization of the disease.

According to RDF policy and in keeping with UN guidelines, members of the military with HIV/AIDS are not permitted to participate in peacekeeping missions abroad but remain in the military.

Section 7. Worker Rights

a. The Right of Association.—The law provides all salaried workers, except for civil servants, the right to form and to join unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice. The law allows unions to conduct their activities without interference, and while the government respected this right in practice, some private sector employers did not and often harassed union members. Between 20 and 30 percent of the total workforce, including agricultural workers, belonged to unions.

All unions must register with the Ministry of Labor for official recognition; the application process was cumbersome.

The law provides some workers the right to strike, but authorities severely restricted this right. Civil servants were not allowed to strike. Participation in unauthorized demonstrations could result in employee dismissal, nonpayment of wages, and civil action against the union. A union's executive committee must approve any strike, and the union must first try to resolve its differences with management following a process prescribed by the Ministry of Labor.

b. The Right to Organize and Bargain Collectively.—The law provides for collective bargaining, but the government severely limited this right. The government was heavily involved in the collective bargaining process since most union members were in the public sector. Only the Central Union of Rwandan Workers (CESTRAR) had an established collective bargaining agreement with the government.

The law prohibits antiunion discrimination, but there were no functioning labor courts to resolve complaints involving discrimination against unions. According to CESTRAR, employers in small companies frequently intimidated unionists through the use of transfers, demotions, and dismissals, although less often than in the previous year. The law requires employers to reinstate workers fired for union activity; however, the government seldom enforced this law.

There were no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, and the government generally enforced this right; however, prison authorities assigned prisoners to work details that generally involved uncompensated public maintenance duties. Gacaca courts sentenced convicts to perform community service, and those suspected of committing genocide who confessed received sentences involving community service. Some prisoners volunteered for community service because it allowed them time away from overcrowded prisons and sometimes extra privileges. Authorities have sentenced a total of 94,466 persons to community service. As of December, 19,000 persons were serving their sentences in one of the 55 community service camps, 11,000 had completed their community service, and 64,466 were waiting to begin community service.

Unlike in the previous year, there were no reports that children in refugee camps were recruited to be used as combatants in eastern DRC or forced laborers.

Forced child labor and trafficking of children for sexual exploitation occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits forced or compulsory labor by children; however, the government did not effectively enforce it. There were approximately 325,000 children (11 percent of children between the ages of five and 17) engaged in child labor. During the year the government increased efforts to stop child prostitution through a high-profile public campaign to discourage intergenerational sex and sexual procurement.

Except for subsistence agricultural workers, who accounted for more than 85 percent of the workforce, the law prohibits children younger than under the age of 16 from working without their parents' or guardians' permission. The law prohibits children under 16 from participating in night work (between 7 p.m. and 5 a.m.) or any work deemed hazardous or difficult by the minister of labor. Children also must have a rest period of at least 12 hours between work engagements. The minimum age for full-time employment is 18 (16 for apprenticeships), provided that the child has completed primary school.

The government identified five forms of child labor as the "worst forms of labor," including domestic work outside the family sphere; agricultural activities on tea, rice, and sugar cane plantations; work in brickyards and sand extraction quarries; crushing stones; and prostitution. During the year child labor persisted in the agricultural sector (particularly on tea plantations), among household domestics, in small companies, and in the brick-making industry. Children received low wages, and abuse was common. In addition, child prostitution and trafficking of children were problems.

A National Advisory Committee on Child Labor composed of various government ministries, the NHRC, the RNP, trade unions, and NGOs met regularly to provide guidance and technical assistance to the government on child labor issues and to develop a national child labor policy. The government supported 30 labor inspectors, one in each district; however, the government was unable to provide them with adequate resources to effectively identify and prevent the use of child labor. Some districts established bylaws to prevent child labor, and child labor reduction benchmarks were integrated into district performance contracts.

The government worked with NGOs to raise awareness of the problem, to identify children involved in child labor, and to send them to school or vocational training. Since 2005, in collaboration with multiple NGOs, the government rescued 3,485 children from exploitative labor conditions and provided training and prevention services to another 2,582 children considered at risk for trafficking or other exploitation. The government fined those who illegally employed children or sent their children to work instead of to school. During the year teachers and local authorities received training on the rights of children.

e. Acceptable Conditions of Work.—There was no single minimum wage, but minimum wages in the formal economy did not provide a decent standard of living for a worker and his family. For example, minimum wage in the tea industry ranged from 500 to 750 Rwandan francs per day (approximately \$0.90 to \$1.35), while in the construction industry it ranged from 1,000 to 1,500 Rwandan francs a day (\$1.80 to \$2.70). Minimum wages, however, provided a higher standard of living than that of the 85 percent of the population relying only on subsistence farming. The Ministry of Public Service, Skills Development, and Labor set minimum wages in the small formal sector. The government, the main employer, effectively set most other wage rates as well. In practice some workers accepted less than the minimum wage. Families regularly supplemented their incomes by working in small businesses or subsistence agriculture.

In May the government passed a law that increases legal working hours from 40 to 45 hours per week and reduces maternity leave from 12 weeks of full salary to six weeks of full salary, with an optional additional six weeks at 20 percent of the salary. The law provides employers with the right to determine daily rest periods; in practice most employees received a one-hour lunch break. The law does not provide for premium pay for overtime, but there are prohibitions on excessive compulsory overtime. The law regulates hours of work and occupational health and safety standards in the formal wage sector, but inspectors from the Ministry of Public Service did not enforce these standards effectively. Workers did not have the right to remove themselves from dangerous work situations without jeopardizing their jobs; however, the government established a list of dangerous professions subject to heightened safety scrutiny. The same standards applied to migrant and foreign workers.

SAO TOME AND PRINCIPE

The Democratic Republic of Sao Tome and Principe is a multiparty constitutional democracy with a population of approximately 150,000. The head of state is President Fradique De Menezes, and the head of government, chosen by the National Assembly and approved by the president, is Prime Minister Joaquim Rafael Branco. International observers deemed the 2006 presidential and legislative elections free

and fair. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens. However, there were problems in some areas, including harsh prison conditions, prolonged pretrial detention, official corruption, impunity, violence and discrimination against women, child labor, and harsh labor conditions.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution and law prohibit such practices, and security forces generally observed these prohibitions.

Prison and Detention Center Conditions.—Prison conditions were harsh but generally not life threatening. Facilities were overcrowded, sanitary and medical conditions were poor, and food was inadequate. Pretrial prisoners were held with convicted prisoners, and juveniles were held with adults. Men and women were held separately. There was one prison and no jails or detention centers. In general police stations had a small room or space to incarcerate detainees for brief periods.

There were a total of 240 inmates, approximately 65 of whom were awaiting trial. The number of inmates included seven women and 20 juveniles. There were no reports of prison deaths.

The government permitted human rights monitors to visit the prison; however, there were no visits during the year.

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

Role of the Police and Security Apparatus.—In June 2008 the national police and immigration service came under the control of a new ministry, the Ministry of Internal Affairs, Government Reforms, and Civilian Protection. The Ministry of National Defense continues to supervise and control the military. Despite increased personnel and training offered throughout the year, police remained ineffective and were widely viewed as corrupt.

Rivalry between military soldiers and police led to two separate confrontations in May and August in which shots were fired. No one was injured in the incidents and no one was held accountable for either incident.

Impunity was a problem, and efforts to reform the Criminal Investigation Police, a separate agency under the Ministry of Justice, were unsuccessful.

Arrest Procedures and Treatment While in Detention.—The law requires that a judge issue arrest warrants to apprehend suspects, unless the suspect is caught during the commission of a crime. The law requires a determination within 48 hours of the legality of a detention, and authorities generally respected this right. Detainees are to be informed promptly of charges against them, and this was generally followed in practice. There was a functioning bail system. Detainees were allowed prompt access to a lawyer and, if indigent, to one provided by the state.

Severe budgetary constraints, inadequate facilities, and a shortage of trained judges and lawyers resulted in lengthy pretrial detention. A total of 27 percent of the country's prisoners were awaiting trial, and some pretrial detainees had been held for more than a year.

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary; however, at times the judicial system was subject to political influence or manipulation.

The legal system is based on the Portuguese model. The court system has three levels: circuit courts, the Supreme Court, and the Constitutional Court, which is the highest judicial authority.

Trial Procedures.—The constitution provides for the right to a fair public trial by a judge (juries are not used), the right of appeal, the right to legal representation, and, if a person is indigent, the right to an attorney provided by the state. Defendants are presumed innocent, have the right to confront their accusers, confront witnesses, access government evidence, and present evidence and witnesses on their own behalf.

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

Civil Judicial Procedures and Remedies.—The same courts consider both criminal and civil cases, but different procedures are used in civil cases. Plaintiffs may bring lawsuits seeking damages for, or cessation of, a human rights violation; there are also administrative and judicial remedies for alleged wrongs.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and law prohibit such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution and law provide for freedom of speech and of the press, and the government generally respected these rights; however, journalists practiced self-censorship. The government owned part or all of most media outlets and had a strong say in what stories or opinions were published or broadcast.

Unlike the media, individuals could privately or publicly criticize the government, including specific officials, without fear of reprisal. There were no reports of the government impeding criticism.

Two government-run and seven independent newspapers and newsletters were published sporadically, usually on a monthly or biweekly basis; resource constraints determined publishing frequency. International media operated freely.

The government operated television and radio stations. The Voice of America, Portuguese Distribution Radio, and Radio France International also were rebroadcast locally. The law grants all opposition parties access to the state-run media, including a minimum of three minutes per month on television.

Internet Freedom.—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics for 2008, approximately 15 percent of the country's inhabitants used the Internet.

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

b. Freedom of Peaceful Assembly and Association.—The constitution and law provide for freedom of peaceful assembly and association, and the government generally respected these rights in practice.

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

Societal Abuses and Discrimination.—There were no reports of discrimination against members of religious groups.

There was no known Jewish community and no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf/

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The law does not prohibit forced exile; however, there were no reports that the government used it.

Protection of Refugees.—The law does not specifically provide for the granting of asylum or refugee status in accordance with the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and the government has not established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

During the year there were no known requests for refugee or asylum status. In the past the government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

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

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

Elections and Political Participation.—The 2006 legislative elections gave a plurality of seats in the National Assembly to a coalition of parties, the Democratic Movement Strength of Change/Democratic Convergence Party (MDFM/PCD), supporting President De Menezes. The MDFM/PCD subsequently formed a government. President De Menezes was reelected in 2006 with 60 percent of the vote. International observers deemed both elections generally free and fair. Also in 2006, for the first time in more than a decade, local elections were held; on the same date, regional elections were held on the island of Principe. The MDFM/PCD won control of five of the six districts in these elections; the principal opposition party, the Movement for the Liberation of Sao Tome and Principe (MLSTP/PSD), won one district, and a new party, Novo Rumo, won one seat in the parliament. The Union for Change and Development of Principe Island (UMPP) won the presidency of the regional government on Principe.

Political parties operated without restriction or government interference.

Women held positions throughout the government, including two seats in the 55-seat National Assembly, four of 13 cabinet positions, one seat on the three-member Supreme Court, and two of the 12 judgeships in the circuit courts.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity.

Official corruption was widespread. The World Bank's 2008 Worldwide Governance Indicators reflected that corruption was a serious problem. In 2008 several high-level officials, including one former prime minister, were brought before the circuit court only for questioning regarding their alleged involvement in the disappearance of millions of dollars from the government's foreign aid fund. The trial resumed on January 30. No high-level officials were tried as they have expansive immunity. However, two administrative officials were convicted and sentenced to nine and seven years in prison, respectively.

Public officials were not subject to financial disclosure laws.

There are no laws that provide for public access to government information; however, there were no reports that the government restricted access to information by citizens or noncitizens, including foreign media.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

In the past a small number of domestic human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution provides for the equality of all citizens regardless of gender, race, social origin or status, political views, creed, philosophical convictions, disability, or language; nevertheless, women faced discrimination.

Women.—Rape, including spousal rape, is illegal and punishable by two to 12 years' imprisonment. Rape occurred occasionally, with prosecution most likely in cases where there was evidence of violent assault as well as rape or if the victim was a minor. However, no statistics on prosecutions were available. Government family planning clinics and nongovernmental organizations (NGOs) sought to combat rape by raising awareness of the problem.

Reports of domestic violence against women continued to increase. Although women have the right to legal recourse—including against spouses—many were reluctant to bring legal action or were ignorant of their rights under the law. Tradition inhibited women from taking domestic disputes outside the family. A newly passed law against domestic violence carries penalties of up to 10 years' imprisonment. The law was strictly enforced, including in cases of domestic violence, but there were no data on the number of prosecutions for domestic violence.

The Ministry of Justice and the UN Children's Fund (UNICEF) maintained a counseling center with a hotline. While the hotline did not receive many calls due to unreliable telephone service, the counseling center received numerous walk-ins. Prostitution is illegal but did occur. Prostitution was rare in the past, but observers estimated its prevalence is increasing with the growing number of foreign workers in the country.

The law does not prohibit sexual harassment, and it was a problem. No data were available on its extent.

The government recognized the right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children. Health clinics and local NGOs were permitted to operate freely in disseminating information on family planning under the guidance of the Ministry of Public Health. There were no restrictions on the right to access contraceptives but they were not widely used. NGOs and the Ministry of Health have run out of supply of contraceptives in the past due to lack of funds, leading to a drop in availability and use. The government provided free childbirth services, but lack of sufficient doctors meant many women, especially in rural areas, used nurses or midwives during childbirth, unless the mother or child suffered more serious health complications. Pre- and post-natal care outside of the family is rare. Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV, but women were more likely than men to seek treatment and refer their partners.

The constitution stipulates that women and men have equal political, economic, and social rights. While many women have access to opportunities in education, business, and government, women in general continued to encounter significant societal discrimination. Traditional beliefs left women with most child-rearing responsibilities and with less access to education or entry into the professions. The Gender Equality Institute (INEPG) within the Office of Women's Affairs held numerous seminars and workshops to raise awareness about discrimination against women. A high teenage pregnancy rate further reduced economic opportunities for women. The government held a conference on teen pregnancy in July.

Children.—Citizenship is acquired either through parents or by being born within the borders of the country. Either parent, if a citizen, can confer citizenship to a child born outside the country.

A law passed in October requires all children born in the country to be registered in the hospital where they are born. If not born in a hospital, the child must be registered at the nearest precinct. Failure to register a birth can lead to a fine.

By law education is universal and compulsory through sixth grade, and tuition-free to the age of 15 or sixth grade, whichever comes first. In practice many rural students stopped attending school after the fourth grade.

Mistreatment of children was not widespread; however, there were few protections for orphans and abandoned children.

Child labor was a problem within the family.

The Ministry of Labor and Solidarity collected street children in three centers, where they attended classes and received training. Conditions at the centers were good; however, because of overcrowding, some children were returned to their families to sleep at night, and a few of these children ran away.

Trafficking in Persons.—The law prohibits trafficking in persons, and there were no reports that persons were trafficked to, from, or within the country. In 2007 the UNICEF and the Economic Community of Central African States held a conference in the country that addressed trafficking in persons and continued with an awareness campaign about the issue.

The State Department's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The law does not prohibit discrimination against persons with physical or mental disabilities; however, there were no reports of discrimination against such persons. The law does not mandate access to buildings, transportation, or services for persons with disabilities. Local NGOs that criticized the government in the past for not implementing accessibility programs for such persons were not active during the year.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—There is no law criminalizing homosexual activity and there were no reports of societal discrimination based on sexual orientation.

Other Societal Violence or Discrimination.—Persons with HIV/AIDS were often rejected by their communities and shunned by their families. However, there were no reports that workers were discriminated against due to their HIV/AIDS status. As in the previous year, there were a number of government and NGO sponsored workshops and awareness campaigns to reduce such instances. The government also provided free AIDS testing and distributed antiretroviral drugs to many recognized patients.

Section 7. Worker Rights

a. The Right of Association.—The constitution and law allow workers to form and join unions of their choice without previous authorization or excessive requirements, and workers generally exercised this right in practice. Only two unions existed in the very small formal wage sector: the General Union of Workers and the National

Organization of Workers of Sao Tome and Principe. Both represented government and private workers, who constituted the majority of formal sector wage earners, and members of farmers' cooperatives.

The constitution provides for the freedom to strike, including by government employees and other essential workers, although during the year no strikes occurred.

b. The Right to Organize and Bargain Collectively.—The constitution and law state that workers may organize and bargain collectively; however, due to its role as the principal employer in the formal wage sector, the government remained the key interlocutor for organized labor on all matters, including wages.

The law does not prohibit antiunion discrimination or retaliation against strikers, but there were no reports of such actions during the year.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—Employers in the formal wage sector generally respected the legally mandated minimum employment age of 18; however, child labor was a problem within families. The law prohibits minors of 14 years old and up from working more than seven hours a day and 35 hours a week. However, 14-year-olds are permitted to work in family businesses or in an apprentice position. Children worked in subsistence agriculture, on plantations, in informal commerce, and in domestic work. No cases of child labor abuses were prosecuted, although the law states that employers of underage workers can be fined. The Ministry of Labor and Solidarity is responsible for enforcing labor laws.

Limited initiatives taken by the government in previous years to prevent child labor continued. The Ministry of Education extended compulsory school attendance from the fourth to the sixth grade, and the government granted some assistance to several low-income families to keep their children in school. The Ministry of Labor also created teams of labor inspectors to increase inspections at work sites.

e. Acceptable Conditions of Work.—There is no national minimum wage. Although the legal minimum wage for civil servants was 650,000 dobras (\$41) per month, it was insufficient to provide a decent standard of living for a worker and family. There has been no adjustment to the minimum wage since 2007. Working two or more jobs was common. The labor law specifies occupations in which civil servants may work if they pursue a second job. Civil servants in "strategic sectors," such as the court system, the Ministries of Finance, Customs, and Education, and the Criminal Investigation Police, earned up to 400 percent more than other public sector employees.

Working conditions on many of the cocoa plantations, the largest informal wage sector, were harsh. The average salary for plantation workers did not provide a decent standard of living for a worker and family, and the purchasing power of their pay was further eroded by the high rate of inflation. While difficult, the situation is not forced labor since most of the workers own a portion of the land due to agricultural reforms recommended by the World Bank in the late 1980s and 1990s.

The legal workweek is 40 hours, with 48 consecutive hours mandated for rest. However, shopkeepers could work up to 48 hours a week. The law provides for compensation for overtime work.

The law prescribes basic occupational health and safety standards; however, due to resource constraints, the Ministry of Justice's and the Ministry of Labor and Solidarity's enforcement of these standards was not effective. Employees have the right to leave unsafe working conditions, but none sought to do so, and enforcement of the right was very limited. Migrant work is all but unknown, although all workers would be entitled to the same protections.

SENEGAL

Senegal, with an estimated population of 12.5 million, is a moderately decentralized republic dominated by a strong executive branch. In 2007 Abdoulaye Wade was reelected president in an election generally viewed as free and fair despite sporadic incidents of violence and intimidation. In 2007 the ruling Senegalese Democratic Party (PDS) won the majority of seats in National Assembly elections that were boycotted by the leading opposition parties. During the March local elections (municipal, regional, and rural communities), a multiparty opposition coalition scored significant victories, especially in the country's major cities. International observers

characterized the March elections as generally free and transparent. Civilian authorities generally maintained effective control of the security forces.

The government generally respected citizens' rights; however, there were problems in the following areas: inhuman and degrading treatment of detainees and prisoners; overcrowded prisons; questionable investigative detention and long pretrial detention; corruption and impunity; limits on freedoms of speech, press, and assembly; domestic violence, rape, sexual harassment of women, and discrimination against women; female genital mutilation (FGM); child abuse; child marriage; infanticide; trafficking in persons; and child labor.

Rebels associated with the Movement of Democratic Forces of the Casamance (MFDC) killed civilians and military personnel, committed robberies, fought with the army, and harassed local populations while fighting each other.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—Neither the government nor its agents committed any politically motivated killings. However, unlike previous years, there was a report of an arbitrary killing by security forces.

On August 11, gendarme Gora Diop shot and killed Sangone Mbaye in the city of Joal after stopping Mbaye's car and demanding a 1000 CFA (\$2.20) bribe. When Mbaye refused, an argument ensued, and the gendarme shot Mbaye, who died after receiving no emergency care. On August 23, the minister of defense announced that the gendarme would face justice, and Diop was put in pretrial detention, where he remained at year's end.

There were no developments in the following 2007 cases: the January killing of a young man by a police officer in Diourbel; the April death in police custody of Dominique Lopy in Kolda; the June killing of Cheikh Ahmet Tidiane Fall by customs officers in Mbour; the July killing of Abdoulaye Seck in Bignona; and the December death in police custody of Badara Diop in Kaolack.

The 2007 killings of Mamadou Sakho Badji and the government's special adviser for the Casamance peace process, Cherif Samesidine Nema Aidara, continued under investigation at year's end; one suspect remained in pretrial detention.

Handicap International (HI) reported one landmine accident during the year. On June 8, in the village of Kouring in the Ziguinchor Region, two persons were injured by landmines. From January to June, HI's humanitarian demining team cleared and neutralized 88 mines. HI continued working under the supervision and coordination of the National Mine Action Center, a government organization.

During the year MFDC rebels reportedly attacked civilians and committed highway robberies in the Casamance.

The level of violence increased considerably during the year in the Casamance. In August fighting between MFDC and the army near the regional capital of Ziguinchor caused the displacement of several hundred persons for a couple of days.

On June 7, three persons were killed in a car hijacking allegedly perpetrated by rebels of the MFDC near the village of Kawane in the northern Casamance. Gunmen reportedly shot Elhadj Babou Ndiaye several times in the chest and hit Ndiaye with a machete on the feet and the head. The gunmen then robbed him and two other car occupants. According to one witness, the gunmen told Ndiaye he was not a native of the Casamance before they shot him. There were no further developments at year's end.

On June 9, gunmen allegedly belonging to the MFDC shot and killed Youssouf Sambou ("Rambo"), a former warlord in the MFDC. The media reported the shooting was an execution by dissident rebels who did not appreciate the peace mediator role Rambo was playing between the government and MFDC. There were no further developments at year's end.

On October 2, gunmen allegedly belonging to the MFDC shot and subsequently killed six soldiers trying to free their vehicle from mud in the Sedhiou area. At year's end there were no further developments.

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

The government did not take any action to resolve older cases of disappearances, particularly in the Casamance, linked to government security forces.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution and law prohibit such practices; however, there were occasional reports that government officials employed them.

Human rights groups noted examples of physical abuse committed by security forces, including cruel and degrading treatment in prisons and detention facilities. In particular, they criticized strip-search and other interrogation methods. Police re-

portedly forced detainees to sleep on bare floors, directed bright lights at their pupils, beat them with batons, and kept them in cells with minimal access to air. During the year authorities took no action against police involved in these abuses.

Human rights organizations highlighted the lack of supervision and impunity with which security forces treated persons in police custody. The African Assembly for Human Rights (RADDHO) continued to demand prosecutions for the 2007 deaths of two suspects in police custody. They also denounced the 2007 abusive treatment inflicted by gendarmes in Dakar on the city's former mayor, Mamadou Diop, who indicated that he was stripped and made to lie on a stone floor.

On May 17, the media reported that a citizen of Guinea-Bissau, Julilson Niniken Vaz, died while in custody at the office of the gendarmes in Mbour. Although security forces allegedly claimed that he died following severe stomach pains, other prisoners arrested at the same time as Vaz reported that the latter had been tortured to death by the gendarmes. The family supported these allegations based on injuries to Vaz's head. There were no further developments at year's end.

On November 17, Abou Dia died while in police custody in the city of Matam. Dia was arrested and taken to the police station for identification. Shortly thereafter the police informed his sister that Dia was not feeling well. When the sister reached the police station, she found Dia dead with marks of violence on his neck. The family accused the police of mistreating Dia and causing his death. No prosecution had been undertaken by year's end.

There were no further developments in the reported cases of torture reported by human rights organizations by security forces following a riot in December 2008 in the city of Kedougou. The court had dismissed allegations of torture made by attorneys.

In 2008 the National Assembly and the Senate jointly amended the constitution to allow retroactive prosecution of genocide and crimes against humanity. In July the National Assembly introduced new provisions in the Code of Criminal Procedure giving defendants the right to appeal a case to the Cour d'Assises, where only judges deliberate cases (see section 1.e.). These legal provisions lifted the last obstacles to the prosecution of former Chadian dictator Hissene Habre on charges of torture and crimes against humanity. Habre has lived in exile in the country for 20 years. However, the government continued to argue that Habre's prosecution could not take place without international donor funding. No further action was taken by year's end.

There were several cases of mob violence. Due to a weak judiciary and widespread impunity, civilians often administered punishment by beating presumed thieves before handing them over to security forces.

For example, on December 1, three armed men tried to rob a woman in Thiaroye Tally Diallo, in the suburbs of Dakar. One was caught by a mob and beaten to death, another managed to escape, while the third took refuge in a private home and was saved by the police. There were no prosecutions by year's end.

Prison and Detention Center Conditions.—Prison and detention center conditions were poor, in part because no prisons have been built since the colonial era. The National Organization for Human Rights (ONDH) identified overcrowding and lack of adequate sanitation as major problems. There were 37 prisons with a designed maximum capacity of 3,000 prisoners. However, officials noted in July that there were in fact 7,139 prisoners. A UN Study Group on pretrial detention visited the country September 5-7 and found that Dakar's main prison facility, known as "Rebeuss," housed 1,592 inmates while its designed capacity was 800. The group criticized the use of long pretrial detention, prolonged police custody beyond the legal time limit, and detainees' lack of access to attorneys for 48 hours after arrest.

According to ONDH, approximately 2,660 persons were being held in prison facilities in pretrial detention. There were 200 children being held with their mothers in prison.

Men and women were held in separate facilities. Prison conditions were generally inadequate due to lack of funding.

Local nongovernmental organizations (NGOs) reported that the rape of female prisoners was a serious issue not addressed by government authorities during the year.

On April 23, A. Kebe, a prisoner serving a two-year sentence at the prison of Diourbel, reportedly became pregnant while in custody; however, after delivering her newborn in prison, she strangled the child. The prosecutor opened an inquiry, but there were no further developments by year's end.

Local NGOs reported that prisoner separation regulations were not always enforced. Pretrial detainees were occasionally held with convicted prisoners, and juveniles were occasionally held with adults.

Prisons lacked doctors and medicine. There was one mattress for every five detainees. Prisons experienced drainage problems and stifling heat, and were infested with bugs; food was of low quality. Prisoners suffered sexual assault.

On May 15, three prisoners reportedly died at the prison of Oussouye. All three were reportedly sick and died after they were transferred to a local hospital.

During the year the government permitted prison visits by local human rights groups such as the ONDH, which also provided humanitarian support to inmates.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention; however, authorities at times arbitrarily arrested and detained persons. Human rights groups described arbitrary detention as a growing problem.

Role of the Police and Security Apparatus.—Police and gendarmes are responsible for maintaining law and order. The army shares that responsibility in exceptional cases, such as during a state of emergency. The police force includes 10 departments, which constitute the Directorate General of National Safety. In each of the country's 14 regions, there is at least one police station and at least one mobile safety brigade. Dakar has 16 police stations. The police force effectively maintained law and order.

The gendarmerie is under the aegis of the Ministry of Defense and primarily employed in rural areas where there is no police presence.

Impunity and corruption were pervasive problems. An amnesty law covers police and security personnel involved in "political crimes, except those who committed assassinations in cold blood."

According to human rights groups, attorneys, and victims, security forces regularly extorted money from detainees in exchange for release and from prostituted persons to overlook noncompliance with prostitution regulations.

The Criminal Investigation Department (DIC) is in charge of investigating police abuses. For example, during the year the DIC investigated the case of journalists Boubacar Kambel Dieng and Karamoko Thioune, who were beaten in June 2008 by police special forces unit following a soccer match in Dakar. There were no further developments at year's end.

According to human rights groups, new members of the police force received training in human rights protection.

Arrest Procedures and Treatment While in Detention.—Although the law specifies that warrants issued by judges are required for arrests, in practice police often lacked warrants when detaining individuals. The law grants police broad powers to detain prisoners for long periods before filing formal charges. The DIC may hold persons up to 24 hours before releasing them. Many detainees were not promptly informed of the charges against them. Police officers, including DIC officials, may double the detention period from 24 to 48 hours without charges, but they must obtain authorization from the prosecutor. Investigators can request that a prosecutor double this period to 96 hours. For cases involving claimed threats to state security, the detention period can be further doubled. Thus, someone accused of plotting to overthrow the government or undermining national defense can be held up to 192 hours.

The detention period does not formally begin until authorities officially declare that an individual is being detained, a practice human rights groups criticized for resulting in unjustly long detention periods. Bail is rarely available. In the first 48 hours of detention, the accused has no access to an attorney but has the right to a medical exam and possibly to access to family; however, family access was not generally allowed. The accused has the right to an attorney at the accused's expense after this initial period of detention. Attorneys are provided at public expense to all criminal defendants who cannot afford one. A number of NGOs also provided legal assistance or counseling to those charged with crimes.

The government used security forces, especially the DIC, to harass journalists and arrest political opponents and civil society leaders (see section 2.b.).

Judicial backlogs and absenteeism of judges contributed to long pretrial detention. The law states that an accused person may not be held in pretrial detention for more than six months for minor crimes; however, persons were routinely held in custody until a court demanded their release. Despite the six-month limit on detention for most crimes, the average time between charging and trial was two years. In many cases persons are freed without charges being filed. In such circumstances the state paid no compensation. During the year a UN study group on pretrial detention criticized the country for its use of long pretrial detention (see Prison and Detention Center Conditions).

In cases involving murder, threats to state security, and embezzlement of public funds, there are no limits on the length of pretrial detention. Judges are allowed the time necessary to investigate these more serious cases but may order release

pending trial with the prosecutor's consent. If a prosecutor opposes release, the order is frozen until an appeals court decides whether to grant release. By law the prosecutor has total discretion to deny provisional release pending trial for cases involving threats to state security, murder, and embezzlement. However, since judges lacked sufficient time to review all cases, orders to extend detention were often signed without consideration of the facts to avoid releasing potentially guilty detainees.

e. Denial of Fair Public Trial.—Although the constitution and law provide for an independent judiciary, the judiciary was subject to corruption and government influence.

Magistrates continued publicly to criticize their working conditions, including overwhelming case loads, lack of equipment, and inadequate transportation. Magistrates also openly questioned the government's commitment to judicial independence.

Based on French civil law, the judiciary is composed of ordinary courts and several higher and special courts. The Supreme Court is the final court of appeal for all criminal and civil cases and is the highest judicial institution. Other components of the judiciary include the Constitutional Council, which has jurisdiction over all constitutional and electoral issues, the High Court of Justice, and the Accounting Court, which has jurisdiction over financial and budgetary affairs.

The Cour d'Assises, a specialized court attached to the Court of Appeals, meets twice a year to prosecute felony cases. In the Cour d'Assises, only judges deliberate on cases. It is possible to appeal verdicts of the Cour d'Assises.

The High Court of Justice presides over cases against senior government officials concerning acts committed in an official capacity. The court has the authority to convict and sentence or to acquit. It is composed of eight National Assembly deputies and one judge. The National Assembly elects the eight deputy members of the High Court and eight substitutes at the beginning of each session. Three-fifths of all deputies must vote to pass a resolution to permit prosecution of a head of state or minister. If a resolution is so passed, the High Court convenes.

While civil court judges preside over civil and customary law cases, plaintiffs can also bring disputes involving family matters to religious judges, who act as advisors. Religious law has been incorporated into the country's laws. Individuals and companies can also refer commercial disputes to arbitration courts, and some citizens still rely on tribal leaders to settle family and community disputes.

The Regional Court of Dakar includes a military tribunal, which has jurisdiction over crimes that are military in nature. The tribunal is composed of a civilian judge, a civilian prosecutor, and two military assistants to advise the judge, one of whom must be of equal rank to the defendant. The tribunal may try civilians only if they were involved with military personnel who violated military law. The military tribunal provides the same rights as a civilian criminal court.

Trial Procedures.—Defendants are presumed innocent. All defendants have the right to a public trial, to be present in court, to confront witnesses, to present evidence and witnesses, and to have an attorney in felony cases.

Evidentiary hearings may be closed to the public and the press. Although the defendant and counsel may introduce evidence before the investigating judge who decides to refer a case for trial, they do not always have access to all evidence presented prior to trial. Access to evidence may be limited by police who want to protect their informants. A panel of judges presides over ordinary courts in civil and criminal cases since trials by jury were eliminated by a law passed on July 28. The right of appeal exists in all courts, except for the High Court of Justice. All of these rights extend to all citizens.

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

On June 25, seven members of the youth movement of the political party AJ/PADS were detained by police in Point E. They were accused of attempting to hold a meeting at the headquarters of their party; the government has banned any form of activities there. The party spokesman called the arrests an attempt to intimidate the party and accused the government of supporting a dissident faction in the party.

Civil Judicial Procedures and Remedies.—Citizens may seek cessation of and reparation for human rights violations in regular administrative or judicial courts. Administrative remedies also can be sought by filing a complaint with the High Commission for Peace and Human Rights in the Office of the President. However, corruption and lack of independence hampered judicial and administrative handling of these cases. At times prosecutors refused to prosecute security officials, and violators often went unpunished. In addition, there were problems in enforcing court orders, since the government can ignore court orders without legal consequences.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and law prohibit such actions, and the government generally respected these prohibitions in practice; however, human rights organizations stated that illegal telephone monitoring by security services was common practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution and law provide for freedom of speech and of the press; however, the government limited these rights in practice, and security forces and politicians intimidated or harassed journalists during the year. Journalists also practiced self-censorship.

Individuals could generally criticize the government publicly or privately without reprisals.

There were several independent and three government-affiliated newspapers. Due to high illiteracy rates, radio was the most important medium of mass information and source of news.

There were approximately 80 community, public, and private commercial radio stations. Although an administrative law is in place to regulate radio frequency assignments, community radio operators claimed there was a lack of transparency in the allocation of frequencies. Radio stations were often controlled by a single religious, political, or ethnic group.

Although the government continued to maintain a firm grip on locally televised information and opinion through Radio Television Senegal (RTS), three privately owned television channels broadcast during the year. By law the government must hold a majority interest in RTS, and the president directly or indirectly controlled selection of all members of the 12-person RTS executive staff. Several human rights and journalist groups criticized the fact that some religious leaders were able to broadcast on government-controlled television and radio without charge, while other groups were obliged to pay.

Government failure to enforce regulations on establishing media outlets and government-provided media assistance resulted in an increase of unprofessional and politicized media. Journalists and human rights groups maintained that some media outlets, such as the daily newspapers *Express News* and *Le Messenger*, and radio stations *Ocean FM*, *Anur*, and *RMD*, were created solely to refute antigovernment criticism.

Journalists continued to criticize government efforts to control media content by selectively granting or withholding state subsidies, which were given to both government-affiliated and private independent media. The government frequently used subsidies, and in a few cases threats and intimidation, to pressure the media not to publicize certain issues.

The international media were active and expressed a wide variety of views without restriction.

The government continued to perceive the media as a threat, and during the year journalists were detained for several hours by the DIC. The police often pressured journalists who reported government scandals, waste, or fraud to reveal their sources. The law allows police to arrest and imprison journalists for libel.

On September 11, the DIC interrogated journalist Pape Ale Niang for seven hours and then released him without charge. Niang's Web site had aired an interview with Abdou Latif Coulibaly, author of a book on lack of transparency in public works bid tendering in which the president's son was allegedly implicated.

On September 18, Abdou Dia, a journalist with Radio Futur Media (RFM), and Pape Samba Sene, a correspondent for *l'As* newspaper in Kaolack, were arrested and put in pretrial detention. They were charged with libel, broadcasting false news, and associating with criminals. The journalists had reported that the governor of Kaffrine and senior officials were involved in embezzlement of seeds provided to local farmers. On September 30, the two journalists were released; however, the case was pending at year's end.

On September 25, a group vandalized the premises and equipment of the independent television station *Wal Fadjri*. The owner accused the government of being behind the attack. Following a vigorous protest by journalists, civil society, and opposition parties, the prosecutor ordered an investigation. No arrests were made by year's end.

There were no developments in the 2008 cases in which journalists were intimidated, beaten, or jailed, including the April death threats against the publisher of the weekly magazine *Weekend* and the June police attack on journalists Boubacar Campbell Dieng and Karamokho Thioune.

24 Heures Chrono, which was suspended from publication in 2008, resumed publication on January 25. Editor El Malick Seck was pardoned by President Wade on April 24 and resumed work at the newspaper.

On April 23, the president pardoned the 12 men sentenced to jail terms of five to six years for ransacking the premises of 24 Heures Chrono and L'As in 2008.

Internet Freedom.—There were no government restrictions on access to the Internet, or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. With more than a dozen Internet service providers and an estimated 2.3 million subscribers, the country had extensive online access. Cyber cafes were numerous in Dakar and often found in provincial centers. According to the International Telecommunication Union's statistics for 2008, approximately 8 percent of the country's inhabitants used the Internet.

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

b. Freedom of Peaceful Assembly and Association.—*Freedom of Assembly.*—Although the constitution and law provide for freedom of assembly, the government interfered with this right in practice. During the year the government repeatedly denied public permits for civil society and political opposition demonstrations. Opposition groups complained of undue delays when waiting for a government response to authorization requests.

There were no developments in the 2007 killing by Kolda police of Dioutala Mane, who had been participating in a demonstration protesting the death of Dominique Lopy in police custody.

During the year there was no action taken against the Ziguinchor riot police who beat seven female elementary teachers in 2007.

Freedom of Association.—The constitution and law provide for freedom of association, and the government generally respected this right in practice.

c. Freedom of Religion.—The constitution and law provide for freedom of religion, and the government generally respected this right in practice. However, on August 21, the prefect of Dakar closed a United Methodist Church in the Nord Foire area on the grounds that it was disturbing neighbors. At year's end the church remained closed.

Any religious group seeking to form an association with legal status must register with the Ministry of Interior in accordance with the civil and commercial code. Registration was generally granted.

Unlike other religious groups, Muslims could choose Islam-based laws contained in the family code for marriage and inheritance cases. Civil court judges preside over civil and customary law cases, but many disputes were turned over to religious leaders for adjudication, particularly in rural areas.

The government provided some financial support for both Muslim and Christian pilgrimages.

Societal Abuses and Discrimination.—During the year there were no reports of societal violence or harassment against members of religious groups.

There were approximately 50 resident Jews; there were no reports of anti-Semitic acts during the year.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

On June 12, the governor of Ziguinchor increased military checkpoints and restricted night travel in the northern Casamance following several car hijackings and the shooting of passengers by armed gunmen. Passenger vehicles were forbidden to use Road 4 between Bignona and Diacounda and Road 5 between Bignona and Seley at the Gambian border, from 7:00 p.m. to 6:30 a.m. Security forces continued to enforce this restriction at year's end (see section 1. a.).

The government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, asylum seekers, and stateless persons.

Some public employees, including teachers, are required by law to obtain government approval before departing the country; however, this law was not generally enforced.

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

Internally Displaced Persons (IDPs).—During the 27-year-old Casamance conflict, tens of thousands of persons left villages in the region due to fighting, forced re-

moval, and landmines. Many persons were reportedly displaced during the year in the region. The government estimated that there were approximately 10,000 IDPs in the Casamance, although this number tended to fluctuate with the ebb and flow of the conflict. Some IDPs who attempted to return to their villages in rural communities south of Ziguinchor met with hostility from MFDC combatants, who survived on the same natural resources as returning IDPs.

The government supported IDPs in Ziguinchor by supplying food and enrolling children in local schools.

Protection of Refugees.—The country is a party to the 1951 Convention relating to the Status of Refugees, the 1967 Protocol relating to the Status of Refugees, and the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. Its laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. Since the president must approve each case, delays of one to two years in granting refugee status remained a problem. In practice the government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government generally granted refugee status or asylum and provided refugees with food and nonfood assistance.

The government violated the rights of some asylum seekers by not offering them due process or security, since appeals filed by denied asylum seekers were examined by the same committee that examined their original cases, and a denied asylum seeker can be arrested for staying illegally in the country. Those arrested sometimes remained in “administrative detention” for up to three months before being deported. According to the UNHCR, as of October 2, a total of 2,744 asylum seekers were in the country.

Since 1989 the country has offered temporary protection to Mauritanian refugees, who generally lived in dispersed locations in the river valley along the Mauritanian border and enjoyed free movement within the country. However, most refugees could not obtain refugee documents from authorities and sometimes encountered administrative difficulties when using their expired refugee application receipts. In 2008 the UNHCR began a repatriation program of Afro-Mauritanians from the country to Mauritania. At year’s end the program had returned 14,711 persons. According to the UNHCR, as of October 25, a total of 25,393 remained in the country, of whom 24,617 were Mauritanians. In addition the government continued to permit generally unsupervised and largely informal repatriation.

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

The constitution and law provide citizens with the right to change their government peacefully, and citizens generally exercised this right in 2007 presidential and legislative elections as well as the local elections held in March during the year. For the first time military and paramilitary forces were allowed to vote.

Elections and Political Participation.—In 2007 President Wade was reelected to a second term with approximately 55 percent of the vote. International observers declared the voting to be generally free and fair; however, there was preelection violence and irregularities, especially in the issuance of voter cards, and many opposition parties did not accept the election results. The parties petitioned the Constitutional Council to void the election; however, the council rejected their petition.

In the 2007 legislative election President Wade’s PDS coalition won 131 of 150 seats. International observers declared the elections to be generally free and fair. Because opposition parties, organized under the umbrella coalition “Front Siggil Senegal,” boycotted the elections, the turnout of 34.7 percent was historically low. In the 2007 indirect elections for the Senate, local officials and members of parliament chose PDS candidates for 34 of the 35 contested seats. The remaining 65 senate seats were filled by the president. The main opposition parties boycotted the senate elections, since the president appoints the majority of senate seats.

The March 22 municipal elections led to significant victories for a multiparty opposition coalition. The mayors of Dakar, St Louis, Podor, Kaolack, Fatick, Thies, Louga, and most of Dakar’s major suburbs are from various opposition parties. International observers declared the March elections to be generally free and fair, although there were instances of voter disenfranchisement. Additionally many polling stations throughout the country opened late due to a lack of election materials and poor training for the presidents of the voting centers. For example, in the Dakar suburb of Pikine, voting materiel did not arrive at the polling stations until 5 p.m., and the voting was extended for only two hours beyond the deadline.

The 150 registered political parties operated without restriction or outside interference.

At year's end there were 37 women in the 150-seat National Assembly and four women in the 32-member cabinet. Only 13 percent of locally elected leaders were women. The 100-member Senate included 40 women.

There were approximately 39 members of minority groups in the National Assembly and an estimated 12 members in the cabinet.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials often engaged in corrupt practices with impunity.

The World Bank's 2009 Worldwide Governance Indicators reflected that corruption was a serious problem, and there was widespread public perception of government corruption. Officials granting themselves and National Assembly members and civil servants salary increases, vehicles, and land over the last few years exacerbated the perception.

The National Commission to Fight Non-Transparency, Corruption, and Government Fraud had no authority to investigate or to prosecute. It remained inefficient in fighting corruption, and prosecuted no government officials for the crime. Despite recurrent allegations of corruption in the media, the commission and the judiciary undertook no investigations.

During the year the government admitted that it made unauthorized extra-budgetary commitments to businesses of approximately 175 billion CFA (\$385 million). Private sector sources claimed that the real amount was closer to double the amount the government acknowledged.

The constitution and law provide citizens the right to access government information freely; however, the government rarely provided access in practice.

In August journalist Abdou Latif Coulibaly published a book outlining corruption in accepting bids on government procurement contracts for infrastructure projects managed by the National Agency for the Preparation of the Islamic Summit Conference. Coulibaly's allegations were never investigated by authorities, and the government allegedly put pressure on local bookstores, which refused to distribute the book for fear of reprisals.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their findings. However, some human rights organizations alleged that their telephones were regularly tapped during the year.

Local independent NGOs included Tostan, the Committee to Combat Violence against Women and Children (CLVF), ONDH, RADDHO, Terre des Hommes International Federation, and Plan International Senegal.

The government's National Committee on Human Rights (NCHR) includes government representatives, civil society groups, and independent human rights organizations. The NCHR has the authority to investigate abuses; however, it lacked credibility since it was poorly funded, did not meet regularly, did not conduct investigations, and did not release a report during the year.

According to the NCHR, the government met regularly with civil society and human rights NGOs to discuss topics including discrimination (racial, gender, and religious), migration, and domestic violence. The government was somewhat responsive to inquiries by NGOs and held meetings with them to discuss rights issues such as torture, domestic violence, and the Hissene Habre case.

Death threats against leaders of opposition political parties, unions, journalists, NGOs, and even a senior official were common and generally were believed to originate in circles close to the ruling party.

Although the government did not prevent visits by international organizations, no such visits were reported during the year.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution provides that men and women are equal under the law and prohibits all forms of discrimination. However, gender discrimination was widespread in practice, and antidiscrimination laws, in particular laws against violence on women and children, often were not enforced.

On October 21, the prime minister announced the creation of a body to coordinate all matters dealing with discrimination. The Ministry of Justice was tasked to take all necessary actions to combat domestic violence.

Women.—Rape was a widespread problem. Spousal rape remained difficult to quantify since it was a taboo subject and seldom reported. The law prohibits rape, but not spousal rape; however, the government rarely enforced the law. Penalties against rape range from five to ten years' imprisonment. A women's rights NGO criticized the lack of rape shield laws that allows the common practice of using a woman's sexual history to defend men accused of rape. Prosecutions for rape remained minimal since judges seldom had sufficient proof that rape occurred, especially when rape happened within a family. It was common to settle rape cases out of court to avoid the publicity and costs associated with prosecution. Ministry of Justice statistics estimated that 47 percent of accused rapists go unpunished and released without going to trial. According to a journalists' NGO, there were 400 documented cases of rape and sexual abuses during the year. However, almost 60 percent of persons committing incest and rape were never brought to justice because of familial ties.

Domestic violence, including spousal abuse, was a widespread problem. Several women's groups and the NGO CLVF reported a rise in violence against women during the year. Violence against women is against the law, but the law was not enforced. The law criminalizes assaults and provides for a punishment of one to five years in prison and a fine. If the victim is a woman, the prison term and fine are both increased. Domestic violence that causes lasting injuries is punishable with a prison sentence of 10 to 20 years; if an act of domestic violence causes death, the law prescribes life imprisonment. The CLVF criticized the failure of some judges to apply the law, citing cases where judges claimed lack of adequate evidence as a reason to issue lenient sentences. During the year the NGO Action Aid reported 167 cases of domestic violence on schoolgirls.

Domestic violence against women is punishable by one to 10 years in prison and fines range from 30,000 CFA (\$66) to 500,000 CFA (\$1,100), depending on the degree of maltreatment. When violence leads to death, the perpetrators are imprisoned for life with forced labor.

Police usually did not intervene in domestic disputes, and most victims were reluctant to go outside the family for redress. There were no statistics available on the number of abusers prosecuted under the law. Close, older family members often committed rape and pedophilia within the household, making it difficult for victims to file lawsuits.

Organizations combating violence criticized the government's failure to permit associations to bring suit on behalf of victims. The Ministry of Women, Family, Social Development, and Women's Entrepreneurship was responsible for ensuring the rights of women.

There were no government programs to combat domestic violence. According to the NGO GRAVE, the Ginndi Center had 22 cases (including a case of incest and a case of an 11-year-old girl who was raped and became pregnant). As of November 10, a total of 10 women died from domestic violence, according to the CLVF local branch in Louga.

Although soliciting customers is illegal, prostitution is legal if individuals are at least 21 years of age, register with the police, carry a valid sanitary card, and test negative for sexually transmitted infections. NGOs working with prostitutes claimed that police targeted female prostitutes for abuse and extortion. There were arrests of illegal foreign prostitutes, underage prostitutes, and pimps during the year. Evidence suggested foreign prostitutes' entry into the country was professionally organized.

The law mandates prison terms of five months to three years, and fines of 50,000 to 500,000 CFA (\$110 to \$1,100) for sexual harassment; however, the practice was common. The government did not effectively enforce the law, and women's rights groups claimed victims of sexual harassment found it difficult, if not impossible, to present sufficient proof to secure prosecutions.

In March a Frenchman managing a hotel in Saly in the Mbour Region allegedly raped a 37-year-old female employee. His case was pending at year's end.

In April a soldier raped his 21-year-old domestic maid in the Mbour Region. In September he was sent to prison for five years.

In October a 70-year-old woman was raped by serial rapist Elabalin Diatta in the village of Kabendou in the Kolda Region. The rapist fled and was being sought by the police and gendarmerie at year's end.

The law provides for the right of all individuals to be informed about and to choose methods for child spacing. It also provides for the right to access medical services to all women during pregnancy and to a safe delivery. The law considers the right to reproductive health to be a "fundamental and universal right guaranteed to all individuals without discrimination." The law further provides that "all

couples and individuals have the right to freely decide to have children, to determine the number of children they wish, and the spacing of these children.”

In practice poor medical facilities, particularly in rural areas and in some urban areas where lack of funds led to the closing of maternity wards and operating rooms, constrained these rights. Social and cultural pressures to have large families led some husbands reportedly to ask health workers to terminate the use of contraceptive by their spouses. This often led women to be discreet in the use of contraception. Men and women were diagnosed and treated equally for sexually transmitted diseases and HIV. Women did not have difficulty being diagnosed for HIV or receiving antiretroviral treatment where available.

Under national law, women have the right to choose when and whom they marry, but traditional practices restricted a woman’s choice. The law prohibits marriage for girls younger than 16, although this law was not enforced in some communities where marriages were arranged. Under certain conditions, a judge may grant a special dispensation for marriage to a person below the age of consent. Women typically married young, usually by the age of 16 in rural areas.

Women faced pervasive discrimination, especially in rural areas where traditional customs, including polygyny and discriminatory rules of inheritance, were strongest. The law requires a woman’s approval of a polygynous union, but once in such a union a woman neither need be notified nor give prior consent if the man takes another wife. Approximately 50 percent of marriages were polygynous. Although protected under the law, marriage rights were not enforced due to sociocultural pressures and judicial reluctance to enforce the law.

The family code’s definition of paternal rights remained an obstacle to equality between men and women, as men are considered the head of household and women cannot take legal responsibility for their children. Women can become the legal head of household only when the father formally renounces his authority before the administration. This makes it particularly difficult for the 20 percent of families that women supported and led. However, it was possible for women to take charge of their children and husband if he was medically unable to do so. Problems in traditional practices also made it difficult for women to purchase property in rural areas.

Men and women have equal rights to apply for a job. Women represented 52 percent of the population, but they performed 90 percent of domestic work and 85 percent of agricultural work.

Children.—Citizenship is acquired by birth or by naturalization; only the father can pass on nationality. Children are not registered at birth unless a parent requests it be done, but failure to do so did not result in the denial of public service. In many rural areas parents seldom registered births. The process of registering births only required a local judge to make a ruling based on oral testimonies.

The law provides for free education, and education is compulsory for all children ages six to 16; however, many children did not attend school due to lack of resources or available facilities. Students must pay for their own books, uniforms, and other school supplies. Due to efforts of the government, NGOs, and international donors, primary school enrollment reached 82 percent during the year.

Young girls encountered greater difficulties in receiving higher education. For example, when families could not afford for all of their children to attend school, parents tended to remove their daughters rather than sons from school. Only 25 percent of women and girls over 15 years of age were literate, compared with 42 percent of boys and men.

Child abuse was common. Poorly dressed, barefoot young boys, known as talibes, begged on street corners for food or money for their Koranic teachers, known as marabouts. These children were exploited by their teachers and exposed to dangers. Physical abuse of talibes was widely known and discussed. A 2008 joint study by the UN Children’s Fund (UNICEF), the International Labor Organization (ILO), the World Bank, and a newly created NGO called the Partnership for the Withdrawal and the Reinsertion of Street Children (PARER), identified 7,800 child beggars in the Dakar area. There were an estimated 50,000 child beggars in the country. Most were approximately 10 years old, although some as young as two were reported. In general they were undernourished and prone to sickness. Since they begged full time, they devoted almost no time to Koranic studies. They were forced to give the proceeds of their begging to their teachers. Each child was expected to collect an average of 400 CFA (\$0.88) per day.

The law punishes sexual abusers of children with five to 10 years’ imprisonment. If the offender is a family member, the punishment is 10 years’ imprisonment. Any offense against the decency of a child is punishable by imprisonment for two to five years and in certain aggravated cases up to 10 years. Procuring a minor for prostitution is punishable by imprisonment for two to five years and a fine of 300,000 to four million CFA (\$660 to \$8,790). If the crime involves a minor younger than

13 years, the maximum penalty is applied. However, the law was not effectively enforced in general.

Rape of children was a problem. The director charged with protection of children's rights reported an estimated 400 cases of rape during 2006-07.

In April an uncle raped and impregnated his 14-year-old niece. The man was in jail awaiting trial at year's end.

On June 18, the Regional Court of Diourbel sentenced Layine Wilane to the maximum of 10 years' imprisonment for raping 12 girls and committing acts of pedophilia on 13 others. All his victims were minors. Wilane perpetrated his crimes in Touba, and the victims were his students in the Koranic school he managed. A local psychologist, Serigne Mor Mbaye, who conducted his own investigation, concluded that the number of victims raped by Wilane exceeded 50 and that the police investigation was not thoroughly conducted.

In January a 60-year-old marabout named Mohamadou Thierno Diallo raped his two nieces (ages 13 and 15), impregnating the 13-year-old girl. In September the marabout was convicted and sent to prison for ten years and fined 10,000,000 CFA (\$22,000).

In May in Saly in the Mbour Region, a Nigerian trader raped a 14-year-old girl. In November he was sentenced to four years in prison.

In October serial rapist A. P. assaulted two students ages 12 and 13 years in the Thiaroye suburb of Dakar. In November he was convicted and sent to prison for two years.

There were no further developments in several 2008 rape cases of children, including the October rape of a 17-year-old girl in Dakar by a man posing as a police officer, the March rape of a 13-year-old girl in Keur Massar, and the May 17 rape of a nine-year-old girl in Guediawaye.

Due to social pressures and fear of embarrassment, incest remained taboo and often went unreported and unpunished. A women's rights NGO stated that, of all cases of violence committed against girls, paternal incest was increasing the fastest.

Tostan and UNICEF estimated that female genital mutilation (FGM) was practiced widely throughout the country. Some girls were as young as one when FGM was performed on them. Almost all women in the country's northern Fouta region were FGM victims, as were 60 to 70 percent of women in the south and southeast. Sealing, one of the most extreme and dangerous forms of FGM, was sometimes practiced by the Toucouleur, Mandinka, Soninke, Peul, and Bambara ethnicities, particularly in rural and some urban areas.

FGM is a criminal offense under the law, carrying a prison sentence of six months to five years for those directly practicing it or ordering it to be carried out on a third person. However, many persons still practiced FGM openly and with impunity. The government prosecuted those caught engaging in the practice and fought to end FGM by collaborating with Tostan and other groups to educate persons about its inherent dangers.

On May 28, the Court of Matam sentenced a woman who had carried out FGM on a 16-month-old baby. The court also handed down the same sentence to the baby's grandmother, who had requested the FGM to be performed. The baby's parents received a suspended sentence of six months' imprisonment. After failing in their efforts to pressure government authorities to abandon the case, local religious groups influenced local persons to stone security force members.

Tostan reported that 3,791 out of an estimated 5,000 communities had formally abandoned the practice by year's end. According to Tostan the movement to abandon FGM accelerated, with 60 percent of previously FGM-practicing communities in the country ending the harmful practice. The government adopted the Tostan model and approach to eradicating FGM. Tostan was working with 522 villages and aimed to end FGM completely by 2015.

Officials from the Ministry of Women, Family, Social Development, and Women's Entrepreneurship and women's rights groups considered child marriage a significant problem in parts of the country, particularly in rural areas, although child marriage is against the law. Girls, sometimes as young as nine years old, were married to older men due to religious, economic, and cultural reasons.

Women's rights groups highlighted infanticide, usually due to poverty or embarrassment, as a continuing problem. Domestic workers or women from villages working in cities who became pregnant sometimes killed their babies since they could not care for them. Others who were married to men working outside the country killed their infants out of shame. In some cases the families of the women shamed them into killing their own babies. Methods ranged from burying them alive, putting them in septic tanks, or simply abandoning them along the road. When the identity of the mother was discovered, the police arrested and prosecuted her.

Many children displaced by the Casamance conflict often lived with extended family members, neighbors, in children's homes, or on the streets. The government lacked adequate resources to support these children effectively. According to NGOs in the Casamance displaced children suffered from the psychological effects of conflict, malnutrition, and poor health. UNICEF reported an estimated 100,000 talibe boys and 10,000 street children.

Prostitution is legal, and there were reports of European tourists traveling to the Saly district of Mbour to procure the services of prostitutes. Procuring a minor for prostitution, however, is punishable by imprisonment for two to five years and a fine of 300,000 to four million CFA (\$660 to \$8,791).

Pornography is prohibited and pornography involving children under 16 is considered pedophilia. Sentences for pedophilia range from five to 10 years' imprisonment. The maximum penalty is applied if the perpetrator is a parent or has authority over the minor.

Trafficking in Persons.—The constitution and law prohibit trafficking in persons; however, persons were trafficked to, within, through, and from the country. Laws that prohibit pimping and kidnapping can be used in some trafficking cases.

Trafficking in and through the country was a serious problem, especially with regard to child begging. Talibes were trafficked from neighboring countries, including The Gambia, Mali, Guinea, and Guinea-Bissau, and internally to participate in exploitive begging for some Koranic schools.

Young girls were trafficked from villages in the Diourbel, Fatick, Kaolack, Thies, and Ziguinchor regions to urban centers for work as underage domestics.

Young girls from both urban and rural areas were involved in prostitution, which NGOs stated involved an adult pimp to facilitate commercial sex transactions or provide shelter. Young boys also were involved in prostitution, particularly to support their families.

The country was believed to be a transit point for women en route to Europe for commercial sexual exploitation.

By law those who recruit, transport, transfer, or harbor persons, whether by means of violence, fraud, abuse of authority, or otherwise for the purposes of sexual exploitation, labor, forced servitude, or slavery are subject to punishment of five to 10 years' imprisonment and a fine of five to 20 million CFA (\$10,100 to \$40,400). When the crime involves torture, barbarism, the removal of human organs, or exposing the victim to a risk of death or injury, prison terms range from 10 to 30 years. The government did not effectively enforce the law, and there were no prosecutions for trafficking offenses during the year. There was no available identification of the principal traffickers.

Following an October 19 interministerial conference, the Ministry of Justice was put in charge of coordinating an interagency group to respond to human trafficking issues. The group includes representatives from the human rights commission; the Ministry of Women, Family, Social Development, and Women's Entrepreneurship; the Ministry of Interior; and a presidential adviser on childhood.

Most government efforts to combat trafficking in persons were centered in the Ministry of Women, Family, Social Development, and Women's Entrepreneurship. The ministry operated the Ginddi Center in Dakar, where child trafficking victims received nutritional, medical, and other assistance. The center accommodated children from The Gambia, Mali, Guinea-Bissau, and Guinea. The center's toll-free child protection hotline fielded many calls. With assistance from a foreign government, the police established a trafficking-in-persons database. There were no government programs to protect or assist trafficked women.

The State Department's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, and the provision of other state services, and the government effectively enforced it. The law also mandates accessibility for persons with disabilities; however, there was a lack of infrastructure to assist them. The Ministry of National Solidarity is responsible for protecting the rights of persons with disabilities.

The law reserves 15 percent of new civil service positions for persons with disabilities. However, according to the Senegalese National Association of People with Physical Disabilities, the government must issue an executive decree to make the law operational. The government operated schools for children with disabilities, provided grants for persons with disabilities to receive vocational training, and managed regional centers for persons with disabilities to receive training and funding for establishing businesses.

Several government programs that appeared to be earmarked for persons with disabilities offered services to other vulnerable populations, reducing resources for persons with disabilities. Due to lacks of special education training for teachers and facilities accessible to children with disabilities, only 40 percent of such children were enrolled in primary school.

National/Racial/Ethnic Minorities.—While the country's many ethnic groups have coexisted relatively peacefully, interethnic tensions between Wolofs and southern ethnic groups played a significant role in the long-running Casamance rebellion that was characterized by grievous human rights abuses.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Homosexual activity, which is indirectly referred to in the law as "unnatural sexual intercourse," is a criminal offense. Gay men and lesbians faced criminal prosecution and widespread discrimination, social intolerance, and acts of violence.

On January 7, the court sentenced Diadji Diouf, director of AIDES Senegal, an NGO providing HIV prevention services, and seven other men to eight years in prison for committing "unnatural sex" and acting as a gang of criminals. They appealed the sentences and were released on April 20 after the court ruled that the evidence against them was inadmissible because the men were arrested in a private location, in violation of the code of criminal procedure.

On May 2, several young persons in the neighborhood of Darou Salam exhumed the body of Madiaye Diallo in the belief that the deceased was gay and should not be buried in their cemetery. After the police intervened, Diallo's family reburied the body. However, when the police left, local persons reexhumed the body and dragged it half-naked to the home of the bereaved family. The family reburied Diallo in a cemetery in Touba. There were no arrests or prosecutions by year's end.

On June 18, Amsa Gueye and Matar Gueye were arrested in Darou Mousty for performing unnatural sex acts. The gendarmes also arrested Ousmane Gaye and two minors, Massamba Gaye and Khadim Gueye. Khadim reported that another man, Thierno Wade, forced himself on him. By year's end Wade had not been arrested. On August 12, the Regional Court of Louga sentenced Amsa Gueye to five years in prison for enticing a minor into vice and unnatural sex acts. Ousmane Gaye and Matar Gueye were found guilty of unnatural sex and sentenced to two years of imprisonment.

Other Societal Violence or Discrimination.—As a result of both government and NGO HIV/AIDS awareness campaigns, persons with HIV or AIDS were increasingly accepted in society.

While there was no reported discrimination against persons with albinism, many suffered and died due to lack of health care skin products. The Senegalese National Albino Association provides a forum for persons with albinism to discuss their difficulties. It also provides job training and therapeutic activities but lacks the funding to be successful.

Section 7. Worker Rights

a. The Right of Association.—By law all workers, except security forces, including police and gendarmes, customs officers, and judges, are free to form and join unions, and workers exercised this right in practice. However, the labor code requires the Ministry of Interior to give prior authorization before a trade union can exist legally. The government can also dissolve trade unions by administrative order, but did not do so during the year. The labor code does not apply to the agricultural or informal sectors, and thus to the majority of the workforce. Approximately 4 percent of the workforce was employed in the private industrial sector, of which 40-50 percent belonged to unions.

The law provides for the right to strike, and workers exercised this right in practice. The law states that workplaces may not be occupied during a strike. Transportation, health, education, bakery, and waste collection workers staged several strikes during the year. Unions representing members of the civil service must notify the government of their intent to strike at least one month in advance; private sector unions must notify the government three days in advance.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law also provides for the right to collective bargaining, and it was freely practiced everywhere but in private security companies. Collective bargaining agreements applied to an estimated 44 percent of union workers.

Antiunion discrimination is prohibited by law, and no antiunion discrimination was reported during the year.

There are no special laws or exemptions from regular labor laws in the country's single export processing zone.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, such practices occurred (see section 7.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law bans the exploitation of child labor, and regulations on child labor set the minimum working age, working hours, and working conditions; and bar children from performing particularly dangerous jobs. However, child labor was a problem, and most instances occurred in the informal economy where labor regulations were not enforced. Economic pressures and inadequate educational opportunities often pushed rural families to emphasize labor over education for their children.

The minimum age for employment was 15; however, children under the age of 15 continued to work in traditional labor sectors, particularly in rural areas where there was no enforcement of child labor laws. There were also reports of children working on family farms or herding cattle.

In August 2008 a national child labor survey published by the National Agency of Demography and Statistics measured the economic activities of children during the prior 12 months. According to the survey, 1,378,724 of the country's 3,759,074 children between the ages of five and 17 years worked. Child labor was especially common in the regions of Tambacounda, Louga, and Fatick. Child labor was prevalent in many informal and family-based sectors such as agriculture, fishing, artisanal gold mining, garages, dumpsites, slaughterhouses, production of salt, and metal and woodworking shops.

Many religious instructors in Koranic schools brought young boys from rural villages to urban areas and held them under conditions of servitude, forcing them to beg on a daily basis in unsanitary and dangerous conditions or work in the agriculture sector under the threat of physical punishment.

One particularly egregious area of child labor was in the mining and rock quarry sector. Child gold washers, mostly between the ages of 10 and 14, worked approximately eight hours a day without training or protective equipment. Children worked long hours in rock quarries, crushing rock, and carrying heavy loads without protection. Both types of work resulted in serious accidents and long-term illness.

According to an October 2007 government survey, 90 percent of children in Kaolack, Fatick, and Ziguinchor carry out tasks detrimental to their health and education. The study also found that 75 percent of girls were responsible for domestic chores, leading many to drop out of school.

Inspectors from the Ministry of Labor were in charge of investigating and initiating lawsuits in child labor cases. They can visit any institution during work hours to verify and investigate compliance with labor laws and can act on tips from trade unions or ordinary citizens. In practice inspectors did not initiate visits because of a lack of resources and relied on unions to report violators. Labor inspectors closely monitored and enforced minimum age rules within the small formal wage sector, which included state-owned corporations, large private enterprises, and cooperatives. However, there were no statistics available on the number of violations found.

The government has raised awareness of the dangers of child labor and exploitive begging through seminars with local officials, NGOs, and civil society. In October the government participated in a project funded by a foreign government to withdraw 3,000 children from the streets and prevent 6,000 others from entering exploitive child labor in agriculture, fishing, begging, and domestic service. The government also participated in an ILO project to combat child labor. The government is implementing the Child Labor Plan, which focuses on better management of child labor issues.

To reduce the incidence of exploitive begging, the Ministry of Women, Family, Social Development, and Women's Entrepreneurship implemented a program to help support 48 Koranic schools whose teachers do not force their students to engage in begging.

e. Acceptable Conditions of Work.—The national minimum wage was 209 CFA (\$0.45) per hour, which did not provide a decent standard of living for a worker and family. The Ministry of Labor was responsible for enforcing the minimum wage. Labor unions also acted as watchdogs and contributed to effective implementation of the minimum wage in the formal sector. The minimum wage was not respected in the informal sector, especially for domestic workers. The minimum wage provisions apply to foreign and migrant workers as well.

Within the formal sector, the law mandates for most occupations a standard workweek of 40-48 hours with at least one 24-hour rest period, one month per year of annual leave, enrollment in government social security and retirement plans, safety

standards, and other measures; however, enforcement was irregular. The law does not cover the informal sector. Premium pay for overtime was required in the formal sector.

While legal regulations on workplace safety exist, they often were not enforced. There is no explicit legal protection for workers who file complaints about unsafe working conditions. Workers, including foreign or migrant workers, had the nominal right to remove themselves from situations that endangered health or safety without jeopardy to their employment; however, it was seldom exercised due to high unemployment and a slow legal system. The Ministry of Labor, through the Labor Inspection Office, enforced labor standards. However, labor inspectors had very poor working conditions and lacked transportation to conduct their mission effectively.

SEYCHELLES

Seychelles is a multiparty republic of approximately 87,000 citizens. In 2006 voters elected President James Michel, who assumed power in 2004 when former president France Albert Rene resigned. International observers deemed the process credible, although there were complaints of unfair campaign practices. The president and the Seychelles People's Progressive Front (SPPF), which since July has been renamed the People's Party, dominated the country through a pervasive system of political patronage and control over government jobs, contracts, and resources. The 2007 national assembly elections did not result in any change in the balance of power between the ruling People's Party (former SPPF) and the opposition Seychelles National Party (SNP). Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens. However, the following human rights problems were reported: prolonged pretrial detention; abuse of detainees; an inefficient and politically influenced court system; restrictions on speech, press, and assembly; official corruption; violence against women and children; violations of and restrictions on labor rights; and discrimination against foreign workers.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, on July 28, a man was found dead in a cell while in police custody. Two police officers were suspended in connection with the case. An internal police inquiry was ongoing at year's end. The Office of the President ordered a separate investigation, but the report, presented to the president on November 3, was not made public to prevent interference with the ongoing police investigation.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution and law prohibit such practices, but police and prison officers were accused of inhumane treatment of detainees.

Following reports of unrest at the Montagne Posee Prison between March 6 and March 15, an investigation by the National Human Rights Commission (NHRC) found that private security guards had been brought in to support the prison guards and contain the situation. On March 6, a prisoner was bitten by a dog that was not appropriately muzzled and controlled by its handler, a private security guard. The prisoner was later taken to the hospital for treatment.

On March 11, the same dog bit eight inmates. All were sent to the hospital for treatment; one inmate was admitted after he suffered groin injuries. The prisoners had previously protested that one of the inmates should not have been sent to solitary confinement in the "black cell," a dark room only large enough to hold one person. Prison guards allegedly used pepper spray on the inmates and hit the legs of the prisoner who refused to go into the "black cell."

On March 15, the NHRC found that the same dog bit three other detainees. All three were sent to a hospital for medical treatment; one of the three was later admitted for further treatment.

On September 4, Regar, a local newspaper, reported that a prison guard at the Montagne Posee Prison assaulted a detainee on July 28. According to the newspaper, the detainee was beaten with a metal chain and suffered injuries to his ribs and lungs. He was later taken to a hospital for medical care. The prison guard was suspended from duty.

Prison and Detention Center Conditions.—Detention centers previously included the Grand Police High Security Prison for violent inmates and the Montagne Posee Prison for all other prisoners and those awaiting trial or sentencing. In June 2007 the Grand Police High Security Prison began transitioning all inmates to the newly opened Montagne Posee Prison. This transition was completed in 2007, and the Grand Police High Security Prison was closed, leaving Montagne Posee Prison as the only prison in the country. Prison officials stated that staff shortages forced guards to limit prisoner time outside their cells. The new facility housed high security and ordinary prisoners, including female prisoners, as well as those in pretrial detention. As of November 17, the prison, which had a maximum capacity of 400, held 323 prisoners, including 311 men and 12 women. Female prisoners were kept separately in a section of the prison until the completion of the women's prison wing in February. The NHRC noted that juveniles were kept together with adult inmates. Remand prisoners were still kept with convicted criminals.

On February 8, a group of prisoners petitioned the president to rectify the shortage of water, food, utensils, and poor sanitary conditions at the prison. The NHRC found that violence erupted between prison guards and a detainee on the morning of March 11, after the latter complained that he had not received the soap that his relatives sent him. In response prison authorities stated that prison guards would need to thoroughly search incoming packages due to drug activities in the prison. The NHRC recommended that additional staff be immediately recruited and that existing prison staff be trained to discharge their responsibilities effectively.

The government generally permitted independent monitoring of prison conditions by local and international human rights groups. During the year the International Committee of the Red Cross (ICRC) did not make any requests for prison visits.

Prison authorities recruited 16 new prison guards; on October 14, the new recruits completed a two-week course as part of the first phase of their training.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention, and the government generally observed these prohibitions. Unlike the previous year, there were no reports of arbitrary arrest or detention.

Role of the Police and Security Apparatus.—The president has complete control over the security apparatus, which includes the National Guard, the Seychelles People's Defense Forces (SPDF), the Presidential Protection Unit, the Coast Guard, and the police. The police commissioner, who reports directly to the president, commands the unarmed police and the armed paramilitary Police Mobile Unit, which together have primary responsibility for internal security. When necessary, police were assisted by the SPDF on matters of internal security.

Corruption remained a problem. The Enquiry Board, a police complaint office, existed but was rarely used. In practice private attorneys filed complaints or published them in the opposition party newspapers Regar and Le Nouveau Seychelles Weekly. Although human rights was included as a core precept in officer training, such training was limited in practice.

Arrest Procedures and Treatment While in Detention.—The constitution and law provide that persons arrested must be brought before a magistrate within 24 hours, with allowances for boat travel from distant islands; however, police did not always respect this requirement. The constitution and law also provide for detention without charge for up to seven days if authorized by court order, and police generally respected this provision. Detainees have the right to legal counsel. Free counsel is not a legal right, but courts usually provided it to indigent persons. Courts provided bail for most offenses. Although warrants are required by law, police made some arrests and detentions without a warrant.

The law provides that detainees have a right to prompt judicial determination of the legality of detention; to be notified promptly of charges against them; and are allowed prompt access to family members. However, there were cases in which these rights were not respected.

The constitution provides for remand prisoners to be released after six months detention if their case has not been heard within that period; however, prolonged pretrial detention was a problem. Prisoners often waited more than three years for trial or sentencing due to the inefficiency of the judicial system. Approximately 23 percent of the prison population consisted of pretrial detainees. The NHRC recommended that other institutions work to reduce the prison population to avoid stretching the already limited resources of the prison.

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary; however, the judiciary was inefficient and subject to executive influence. Both civil and criminal court cases generally lasted years. There were no reports of judicial corruption, although there was a widespread public perception that some judges were corrupt.

The judicial system includes magistrates' courts (or small-claims courts), the Supreme (or trial) Court, the Constitution and Law Court, and the Court of Appeal.

One supreme court judge, one appeals court judge, and two magistrate court judges were citizens by birth. All others were either naturalized citizens or citizens of other Commonwealth countries. The bar association criticized the government for not advertising domestically that judicial positions were available. Critics widely believed that some foreign justices bent to the will of the executive branch because of fear that they might lose their jobs.

Several justices of the peace were responsible for small-claims cases, and there were allegations that many of the justices were appointed because of their affiliation with the People's Party.

An 18-member part-time family tribunal heard and decided all matters relating to the care, custody, access to, and maintenance of children, except paternity cases, which remained under the courts. The government empowered the family tribunal to issue protection orders to victims of family violence. Most members of the tribunal were not legally trained and were affiliated with the People's Party.

Trial Procedures.—Defendants have the right to a fair public trial, and trials were public in practice. A magistrates' court or the Supreme Court heard criminal cases, depending on the gravity of the offense. Cases involving murder or treason use juries.

Defendants are considered innocent until proven guilty, and have the right to be present at their trial, to confront witnesses, and to appeal. The constitution makes provision for defendants to present evidence and witnesses and to cross-examine witnesses in court. Defendants have the right to access government-held evidence; however, in practice such requests were often delayed. The law provides for defendants to consult with an attorney in a timely manner. The above rights are enjoyed equally by all citizens.

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

Civil Judicial Procedures and Remedies.—The constitution and law provide for an independent and impartial judiciary in civil matters; however, the judiciary was inefficient and subject to executive influence.

On March 10, the NHRC was established to examine cases of human rights abuses. Prior to the creation of the NHRC, citizens turned to the ombudsman office to investigate human rights abuses and to seek redress for other issues.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and law prohibit such actions, and the government generally respected these prohibitions in practice. However, there remained widespread suspicion of government monitoring of private communication without legal process.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution and law provide for freedom of speech and of the press; however, the government did not respect these rights in practice. The law provides restrictions "for protecting the reputation, rights, and freedoms of private lives of persons" and "in the interest of defense, public safety, public order, public morality, or public health." As a result, civil lawsuits could be filed to penalize journalists for alleged libel. Journalists practiced self-censorship.

Individuals could not criticize the government publicly or privately for fear of reprisal.

On November 27, Regar reported that the Supreme Court awarded damages, ranging from 30,000 to 75,000 rupees (\$2,750 to \$6,875), to 13 victims of the 2006 police assault on SNP partisans for an alleged illegal gathering.

On August 21, two independent media consultants published a report on the media and recommended the creation of a media council and a media association, as well as a joint consultation committee. The latter would act as a consultative platform and would settle any issue between the media council and the media association. The report also recommended amendments to the libel laws. The media association was established in August.

There are two privately owned daily newspapers, the *The Rising Sun* and *The Nation*, and a government-owned newspaper, which generally supported government policies. The *Nation* gave limited attention to the opposition and generally ignored news that reflected adversely on the government. There were three weekly political party newspapers: Regar, *The People*, and *Le Nouveau Seychelles Weekly*.

The law allows the minister of information technology to prohibit the broadcast of any material believed to be against the "national interest" or "objectionable." The law also requires telecommunications companies to submit subscriber information to the government.

The government owned the only television station and all radio stations. The law allows for independent radio and television, but the licensing fee of 800,000 rupees (\$73,320) per year discouraged the opening of any independent broadcasters. Following the 2006 elections, the opposition SNP collected funds for the radio licensing fee and announced plans to apply for a license. Subsequently, and as a response to the SNP plan, the National Assembly passed an amendment to the Broadcasting and Telecommunications Act that prevents political parties and religious groups from obtaining radio licenses. By year's end the Law and Order Committee, established in 2007, had not made recommendations on the amendment to the act.

Internet Freedom.—There were no government restrictions on access to the Internet; however, there were reports that the government monitored e-mail and Internet chat rooms. Individuals and groups engaged in the peaceful expression of views via the Internet, including by e-mail. According to the International Telecommunication Union statistics for 2008, approximately 38 percent of the country's inhabitants used the Internet.

Academic Freedom and Cultural Events.—Opposition activists claimed that the government limited academic freedom by reportedly not allowing academic professionals to reach senior positions in the academic bureaucracy without demonstrating at least nominal loyalty to the People's Party. The government controlled faculty appointments to the Polytechnic and the University of Seychelles, which opened on September 15.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The constitution and law provide for freedom of assembly and association; however, the government did not always respect it.

On August 28, Regar reported that police denied the SNP permission to hold a public meeting on private property, claiming that the meeting would cause annoyance to nearby residents and breach the security and peace of the area.

Freedom of Association.—The constitution and law provide for freedom of association; however, the government did not always respect this right. There were complaints that government officials intimidated and even dismissed civil servants who participated in opposition party activities.

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

Religious groups are not required to register but must apply to the Ministry of Finance to receive tax exemptions.

Societal Abuses and Discrimination.—The Jewish community numbered fewer than 10 persons; there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at <http://www.state.gov/j/drl/rls/irf/>

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. Although it was not done during the year, the law allows the government to deny passports to any citizen if the minister of defense finds that such denial is "in the national interest."

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

Protection of Refugees.—The law provides for the granting of refugee status or asylum in accordance with the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa, but the government has not established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular group, or political opinion.

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

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

Elections and Political Participation.—In July 2008 an SNP candidate won a national assembly by-election by an 87 percent margin. Only candidates from the SNP and the Democratic Party (DP) contested the election. There were reports that partisans of the former SPPF (the present People's Party) harassed opposition sup-

porters in the days prior to the voting, and both the SNP and DP filed complaints with the electoral commissioner's office.

The 2007 national assembly elections produced no change in the balance of power between the ruling party and the opposition SNP. International observers found the elections to be credible. Minor complaints of electoral irregularities were filed with the electoral commissioner.

In 2006 approximately 88 percent of eligible voters elected incumbent and then-SPPF presidential candidate James Michel with 54 percent of the vote. International observers characterized the electoral process as credible and well-organized; however, opposition partisans filed complaints with the electoral commissioner's office regarding unfair campaign and electoral practices.

There were reports that opposition parties could not operate without restrictions or outside interference. On August 8, Regar reported that police denied the SNP permission to hold a public meeting (see section 2.b.).

The newly renamed People's Party, which assumed power in a 1977 coup, continued to use its political resources and those of the government to develop and maintain a nationwide organization that extended to the village level.

There were reports that People's Party membership conferred business and political advantage; for example, some members of opposition parties claimed that they lost their government jobs because of their political affiliation and were at a disadvantage when applying for government licenses and loans.

There were 10 women in the 34-seat National Assembly, seven elected by direct election and three by proportional representation. Following the July 2008 cabinet reshuffle, there were two women in the cabinet.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. The World Bank's 2009 Worldwide Governance Indicators reflected that corruption was a problem. There were reports of rewards to People's Party supporters in the form of job assistance, land distribution, free building materials, and monetary payments.

Public officials were subject to financial disclosure laws upon taking office; however, there were no reports that such disclosures occurred in practice.

An ombudsman has legal authority to investigate and report on allegations of official fraud and corruption. He investigated 128 cases during the year involving problems such as labor law litigation, human rights abuse, and land and property disputes. Only one case involved allegations of fraud and corruption.

There are laws allowing public access to government information, although the government did not enforce them, and citizens routinely did not have access to such information.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A small number of international human rights nongovernmental organizations (NGOs) and one domestic human rights group, the Center for Rights and Development (CEFRAD), generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to the views of international NGOs; however, cooperation with CEFRAD, which was perceived as being aligned with the opposition, was limited. For example, the government refused to permit CEFRAD and other local groups to observe the 2006 presidential election or the 2007 legislative elections.

A government-run National Humanitarian Affairs Committee (NHAC) operated with a range of members from both civil society and the government. The ICRC acted as a technical adviser to the NHAC.

On March 10, the NHRC was established by law to investigate allegations of human rights abuse, including those committed by members of law enforcement agencies. The commission enjoyed the government's cooperation and operated without government or party interference, had adequate resources, and was considered effective. It issued a report on the March Montagne Posee Prison disturbances and recommended additional staff and training (see section 1.c.).

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law affirm the right to be free from all types of discrimination but do not prohibit discrimination based on specific factors. In practice there was no overt discrimination in housing, employment, education, or other social services based on race, gender, ethnicity, nationality, or disability.

Women.—Rape, spousal rape, and domestic abuse are criminal offenses punishable by a maximum of 20 years' imprisonment. The government enforced the law effectively and the Family Tribunal issued 500 protection orders related to domestic violence during the year. Rape was a problem. The police registered 66 rape cases for the year; however, many rape cases went unreported for fear of reprisal or social stigma. The Social Affairs Division of the Ministry of Health and Social Development and Women in Action and Solidarity Organization (WASO), a local NGO, provided counseling services to rape victims, and two rape victims received counseling services from the NGO during the year. At year's end, there were no statistics available for the number of prosecutions regarding rape cases.

Domestic violence against women was a continuing problem. Police rarely intervened in a domestic dispute unless it involved a weapon or major assault. Authorities often dismissed the few cases that reached a prosecutor, or the court gave the perpetrator a light sentence.

In 2008 the Ministry of Health and Social Development launched the 2008-12 National Strategy Plan on Domestic Violence. In November GEMSA Plus, a local NGO working for the rights and empowerment of women, jointly organized a 16-day campaign against gender violence with the help of the Ministry of Health and Social Development, and 10 persons attended a workshop to raise awareness of the different forms of domestic violence.

Prostitution is illegal but remained prevalent. Any person found guilty of prostitution may be imprisoned for two years. Police generally did not apprehend persons for prostitution unless their actions involved other crimes.

The law prohibits sexual harassment, but it was rarely enforced. The penal code does not provide any penalty for persons found guilty of sexual harassment; however, the court can order a person accused of sexual harassment to "keep a bond of peace," which allows the court to assess a fine if the harasser fails to cease the harassment.

The government recognized the right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children. Health clinics and local health NGOs were permitted to operate freely in disseminating information on family planning under the guidance of the Ministry of Health and Social Development. There were no restrictions on the right to access contraceptives but few couples reportedly used these measures. The government provided free childbirth services; however, women preferred using nurses or midwives during childbirth as well as prenatal and postnatal care, unless the mother or child suffered more serious health complications. Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV.

Women enjoyed the same rights as men. The society is largely matriarchal. Unwed mothers are the societal norm, and the law requires fathers to support their children. There was no officially sanctioned discrimination in employment, and women were well represented in business. There was no economic discrimination against women in employment, access to credit, equal pay for equal work, or owning or managing a business. Inheritance laws do not discriminate against women.

Children.—Citizenship is derived by birth in the country or from parents, and births are registered immediately. Failure to do so, however, did not result in the denial of public service.

The government requires children to attend school through the 10th grade and made free public education available through the secondary level until age 18.

The law prohibits physical abuse of children; however, child abuse was a problem and was rarely reported. Sexual abuse of children, usually perpetrated by stepfathers and older brothers, was a problem. According to WASO, rape of girls under the age of 15 continued to be a problem; however, most cases went unreported for fear of reprisal or cultural stigma. Authorities prosecuted very few child abuse cases in court due to lack of efficient working relations between government agencies and departments. The strongest public advocate for young victims was a semi-autonomous agency, the National Council for Children.

On April 29, The Nation reported that a local NGO, Young Soldiers for Christ, observed an increase in prostitution and feared that some youth could engage in prostitution as a consequence of the economic downturn.

The age of consent for marriage is 15 years. Girls were not allowed to attend school when they were pregnant, and many did not return to school after the birth of a child.

Trafficking in Persons.—The law prohibits trafficking in persons for all purposes, and there were no reports that persons were trafficked to, from, through, or within the country.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The constitution and law provide for the right of persons with disabilities to special protection, including reasonable provisions for improving the quality of life; however, there are no laws providing for access to public buildings, transportation, or state services, and the government did not provide such access for persons with disabilities. There was no discrimination reported against persons with disabilities in housing, employment, or education, or in the provision of other state services.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The law does not specifically prohibit discrimination based on sexual orientation, and there were no reports that such discrimination occurred.

Other Societal Violence or Discrimination.—There were no reports of violence or discrimination against persons with HIV/AIDS.

Section 7. Worker Rights

a. The Right of Association.—The law provides workers with the right to form and join unions of their choosing; however, police, military, prison, and firefighting personnel may not unionize. The law is silent regarding the rights of foreign or migrant workers to join a union. Some citizens were reluctant to join the Seychelles National Trade Union (SNTU), a nongovernmental labor union, due to fear of government reprisal. Unions organized between 15 and 20 percent of the workforce.

The Seychelles Federation of Workers' Unions (People's Party-associated) was the only trade union in active operation; the SNP-associated SNTU ceased operations in 2007. Despite the legal provisions allowing workers to form and join unions, membership in the SNTU had continued to decrease because workers feared losing their jobs. The SNTU claimed that employers did not reinstate workers fired for union activity.

Strikes are illegal unless arbitration procedures are first exhausted. Observers noted that the Industrial Relations Act provisions regarding the holding of strikes hinder unions' right to strike.

b. The Right to Organize and Bargain Collectively.—The law allows for unions to organize and conduct their activities without interference. The law provides workers with the right to engage in collective bargaining, but this seldom occurred. The government has the right to review and approve all collective bargaining agreements in the public and private sectors. There was little flexibility in setting wages. In the public sector, which employed more than 50 percent of the labor force, the government set mandatory wage rates for employees. The employer generally set wages in the private sector through individual agreements with the employee, while the government set wage rates in the few larger businesses.

The law authorizes the Ministry of Employment and Human Resource Development to establish and enforce employment terms, conditions, and benefits, and in practice workers frequently obtained recourse against their employers through the ministry.

Unions engaged in collective bargaining in the private sector; however, observers noted that private sector employers were reluctant to do so.

The law prohibits antiunion discrimination, and there were no reports of it during the year.

There was one export processing zone, the Seychelles International Trade Zone (SITZ), with 25 participating companies. Only the Seychelles Trade Zone Act applied in the SITZ, and the government did not require the SITZ to adhere to labor, property, tax, business, or immigration laws.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law states that the minimum age for employment is 15, "subject to exceptions for children who are employed part time in light work prescribed by law without harm to their health, morals, or education." In practice the government followed these requirements. It is otherwise a criminal offense punishable by a fine of 6,000 rupees (\$550) to employ a child under the age of 15. The Ministry of Employment and Human Resource Development enforced child labor laws. The ministry handled such complaints within its general budget and staffing and did not report any case requiring investigation. No children were found working in the fishing, tourism, agricultural, boat-building, or processing industries; the Ministry of Education carried out regular checks to ensure that children were actually attending school.

e. Acceptable Conditions of Work.—There is no official private sector minimum wage. The government encouraged but did not require the private sector to grant the minimum public sector wage. Since 2006 the minimum public sector wage has remained at 2,325 rupees (\$213) per month. Even with free public services, primarily health care and education, a single salary at the low end of the pay scale did not provide a decent standard of living for a worker and family. Private employers generally paid higher wages than the government to attract qualified workers.

The legal maximum workweek varied from 45 to 55 hours, depending on the economic sector; in practice some workers worked up to 60 hours per week. Government employees worked fewer hours. Regulations entitled each full-time worker to a 30-minute break per day and a minimum of 21 days of paid annual leave. The government permitted workers to work overtime up to 60 additional hours per month. The government generally enforced these regulations. The law requires premium pay for overtime work.

Foreign workers—mainly employed in the construction and commercial fishing sectors—did not enjoy the same legal protections as citizens. Companies sometimes paid foreign workers lower wages, forced them to work longer hours, and provided them with inadequate housing.

The Ministry of Health and Social Development has formal responsibility for drafting the government's comprehensive occupational health and safety regulations, and the ministry supported these standards, although, due to limited resources, safety and health inspectors rarely visited job sites. Occupational injuries were most common in the construction, marine, and port industries. The law has been amended to allow workers to remove themselves from dangerous or unhealthy work situations, report the employer to the Health and Safety Commission, and seek compensation without jeopardizing their employment.

SIERRA LEONE

Sierra Leone is a constitutional republic with a directly elected president, a unicameral legislature, and a population of approximately 6.4 million. In peaceful presidential and parliamentary elections held in 2007, the opposition All People's Congress (APC) won a majority in parliament, and citizens elected party leader Ernest Bai Koroma president. Domestic and international observers characterized the elections as credible and free but noted irregularities that did not affect the outcome. In 2002 the devastating 11-year civil conflict officially ended, and the government, backed by a United Nations peacekeeping force (UNAMSIL), asserted control over the whole country. In 2004 UNAMSIL handed responsibility for security countrywide to the Republic of Sierra Leone Armed Forces (RSLAF) and Sierra Leone Police (SLP). In 2005 UNAMSIL withdrew all remaining peacekeepers and transferred nonpeacekeeping responsibilities to a follow-on peacebuilding UN mission (UNIOSIL). In 2008 UNIOSIL's mandate ended, and the UN Integrated Peacebuilding Office in Sierra Leone (UNIPSIL) was established to support government institutions and monitor and protect human rights and the rule of law. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens. However, there were problems in a number of areas, including: security force abuse and use of excessive force with detainees, including juveniles; police theft and extortion; harsh conditions in prisons and jails; official impunity; arbitrary arrest and detention; prolonged detention, excessive bail, and insufficient legal representation; restrictions on freedom of speech and press; forcible dispersion of demonstrators; widespread official corruption; societal discrimination and violence against women; female genital mutilation (FGM); child abuse; trafficking in persons, including children; and child labor.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution and law prohibit such practices; however, there were reports that security and police forces used excessive force, stole, extorted, and demanded bribes. The law allows up to 36 lashes as punishment. Although nongovernmental organiza-

tion (NGO) sources state that such incidents occurred less frequently than in previous years, prison guards reportedly beat prisoners with impunity.

No action was taken against the prison warden who severely beat an inmate in July 2008.

No action was taken in any of the 2007 cases involving police use of excessive force.

Police use of excessive force to disperse demonstrators resulted in injuries and death. For example, in September police shot and killed three persons and injured numerous others after the civilians attacked the local police station.

Compared to the previous year, fewer men and women were initiated forcibly into tribal secret societies, a process that for women usually involved FGM.

Vigilante violence was common in urban areas, particularly for suspected thieves and unsettled debts. Crowds often set upon suspected thieves.

By year's end no one had been charged for the March 2008 killing of a thief in eastern Freetown.

There were continued reports that Guinean troops along the eastern border harassed local residents.

Prison and Detention Center Conditions.—Prison conditions were harsh and sometimes life threatening. Overcrowding was a major problem. The Bureau of Prisons stated that as of October there were 2,317 prisoners in the country, including 112 women. The Pademba Road Prison, which was designed to house 324 prisoners, held 1,222 as of October, according to the Bureau of Prisons. In some cases, cells measuring six feet by nine feet housed nine prisoners. According to UNIOSIL's 2007 assessment of prisons, corporal punishment, solitary confinement, reduction in food rations, loss of visitor privileges, and loss of exercise privileges were routine disciplinary measures. In Kabala and Port Loko Prisons, UNIOSIL reported that officers in charge were present when guards beat inmates with canes and plastic water pipes. While such practices continued, NGOs reported that, as in the previous year, training and monitoring resulted in a reduction in the number of such incidents.

Human rights observers reported that detention conditions frequently fell below minimum international standards because of overcrowding, lack of access to food, unhygienic conditions, and insufficient medical attention. One NGO noted an improvement in nutritional standards, but prisoners continued to receive inadequate portions of food during the year. The Bureau of Prisons received only 2,500 leones (\$0.63) per prisoner per day for food rations; increased food prices throughout the year posed a significant challenge. Prison cells often lacked proper lighting, bedding, ventilation, and protection from mosquitoes.

Few prisoners had access to adequate medical facilities, and clinics lacked supplies and medical personnel to provide services beyond the basics. Authorities allowed only emergency patients to visit the clinic outside of the assigned schedule. Women were treated as outpatients or were referred to the local hospitals for special care. However, doctors and nurses in these hospitals often refused to treat prisoners or provided inferior care because of the social stigma associated with assisting criminals and the Bureau of Prison's inability to pay medical bills.

Local NGO Prison Watch reported that there was a shortage of prison staff and officers were not paid regularly. Consequently, guards provided only minimal security, and abuse of prisoners and prison breaks occurred. Prison Watch received reports that prison guards sold prisoner food rations to supplement their meager salaries.

Conditions in holding cells in police stations were poor, especially in small stations outside Freetown. Cells were dark with little ventilation. However, overcrowding in some police cells somewhat improved due to magistrate judges deployed to the districts to process cases.

During the year a total of 36 prisoner deaths occurred allegedly as a result of anemia, respiratory tract infections, pneumonia, and heart failure.

Men and women were held in separate cells; however, in many of the prisons, men and women were held in the same block and shared facilities. Several prisons held infants, most of whom were born in prison and continued to be detained there with their mothers. These children were later released to family members once weaned. Five children were housed with adult prisoners at year's end, and the first lady was involved in improving the standard of care for them. While the women's section of the prison on Pademba Road was significantly less crowded with better facilities than the male section, officials detained together persons being tried for petty and serious offenses; the section had no shower facilities, no exercise area, and few rehabilitation programs.

Although authorities made an effort to prevent detaining juveniles with adults, minors regularly were imprisoned with adult offenders. Police sometimes released juveniles suspected of committing crimes to avoid incarcerating them with adults.

At the same time, when questioned by Prison Watch about detaining juveniles, officers alleged that in some cases, police officers inflated the ages of juveniles to escape blame for detaining them. In the three juvenile facilities, detainees did not have adequate access to food, education, or vocational training, and sometimes were unable to attend court hearings due to lack of transportation. The facilities were deteriorating and in need of better management by the Ministry of Social Welfare, Gender, and Children's Affairs, which was responsible for all services but security. Violence among youth was a problem, and small riots occurred in some facilities. Juveniles housed with adults and then moved to age-appropriate facilities were often instigators of violence, as the Justice Sector Development Program (JSDP) noted.

In most cases pretrial detainees were held with convicted prisoners. According to Prison Watch, only 200 of the 1,222 prisoners in Pademba Road Prison had been convicted.

The government permitted family visits to prisoners and detainees regularly during the year. Unlike the previous year, the International Committee of the Red Cross (ICRC) did not provide a message delivery service that allowed prisoners housed in all district prisons to communicate with their families on a quarterly basis.

International monitors, including UNIPSIL, had unrestricted access to the prisons, detention centers, and police holding cells. Additionally, some NGOs such as Prison Watch, JSDP, and the Lawyers' Center for Legal Assistance (LAWCLA) monitored the prisons.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention; however, government forces occasionally arrested and detained persons arbitrarily.

Role of the Police and Security Apparatus.—The SLP has primary responsibility for maintaining internal order but was poorly equipped and lacked investigative, forensic, and riot control capabilities. The military is responsible for external security; however, the "Military Assistance to the Civil Power" program provided additional assistance to police in extraordinary circumstances, such as following a police shooting of three civilians near Lungi Airport in September.

There were fewer cases of police brutality during the year, but police corruption was a serious problem, in part exacerbated by low salaries. There were continued reports that police officers took bribes at checkpoints, falsely charged motorists with violations, and impounded vehicles to extort money. Police also accepted bribes from criminal suspects in exchange for dropping charges or having their rivals arrested and charged with crimes.

Police frequently were not present or chose not to intervene when crowds beat alleged thieves. In numerous instances, police in exchange for kickbacks refused to make arrests when warranted, or they arrested persons without charge for civil causes such as alleged breach of contract or failure to satisfy a debt.

According to the JSDP, impunity was less of a problem than in the past, and there were several mechanisms available to investigate police abuses. The Police Complaints Commission and the Complaints, Discipline and Internal Investigations Department (CDIID) heard more complaints against police officers during the year than in the previous year, largely due to greater public trust in the organization. There was also a Police Council composed of the vice president, minister of internal affairs, inspector general, and others who accepted written complaints against senior police officers. The CDIID facilitated all hearings and trials related to junior police officer complaints. An appeals process was available and used often. After the CDIID issued disciplinary measures against an SLP officer, the officer was also subject to the civilian court if criminal action was involved. An infrequently published SLP newsletter listed disciplinary actions against officers.

Between January and July the CDIID received 1,281 complaints countrywide, resulting in at least 291 officers being dismissed, demoted, suspended, or officially warned. The other cases were at various stages of investigation or review. The most common complaints lodged against police were corruption, unfair treatment, lack of professionalism, and assault. Cases requiring dismissal of an officer most commonly involved criminal cases or officers fraudulently posing as landowners or businessmen to extort money.

Police continued to receive professional, leadership, and human rights training, and new recruits received a six-month introductory course before deployment. The SLP retained a full-time UN technical advisor and a number of UN Civilian Police advisors. As a result of training programs during the year and the introduction of community policing conducted by the Department for International Development, the Commonwealth, and the JSDP, the professional conduct of the police force im-

proved. However, its efficacy continued to be hampered by limited financial resources.

Arrest Procedures and Treatment While in Detention.—The law requires warrants for searches and arrests in many cases; however, arrest without warrant was common. According to UNIOSIL's 2007 assessment of prison conditions, adjournment dates on some warrants were altered and not endorsed by the magistrate, while other warrants were signed, but not by the presiding magistrate. Prison Watch and LAWCLA reported that most arrests were made without warrants and that the SLP rarely followed proper arrest procedures. Only high-profile cases that were scrutinized publicly were known to be properly handled.

Once arrested, a detainee must be told the reason for arrest within 24 hours and be charged in court within 72 hours, or in the case of serious crimes, within 10 days. According to several NGOs, remanded prisoners routinely were brought to court on a weekly basis to be remanded again in order to bypass the legal restrictions.

Detainees have the right of access to family and legal representation; however, due to a lack of financial resources, only 5 to 10 percent of inmates had access to legal representation. Lawyers generally were allowed unrestricted access to detainees. Although the constitution provides for legal aid, fewer than 10 state counsels served the entire country, and they were only available for more serious criminal cases. Only defendants in the military justice system had automatic access to attorneys, whose fees were paid by the Ministry of Defense. For civilians, three attorneys provided legal aid outside of Freetown. Authorities permitted regular family visits, although the frequency and duration of the visits varied from prison to prison. According to NGO reports, however, family members often paid bribes to facilitate visitation.

There were provisions for bail, and there was a functioning bail system; however, the bail regime was inconsistent and sometimes excessive.

Lengthy pretrial detention was a problem. According to Amnesty International, as a result of case backlogs, pretrial and remand detainees spent an average of three to five years in pretrial detention before courts examined their cases or filed formal charges. In one case, nine years of pretrial detention was ongoing at year's end. Approximately 60 percent of detainees in prison were in pretrial detention. On November 10, inmates at the prison in Bo engaged in a small-scale riot to protest against their lengthy pretrial detentions and what they considered to be their lack of access to justice. According to the Open Society Initiative for West Africa, remand prisoners frequently changed their pleas from "not guilty" to "guilty" to be removed from the remand section to the better areas of the prison.

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary, and the government generally respected this provision; however, the judiciary at times was subject to government influence and corruption.

The judicial system consists of the Supreme Court, Court of Appeal, High Court of Justice, and magistrate courts in each of the 12 districts and the Western Area. There was also one juvenile court. The president appoints and parliament approves justices for the courts. Local chieftaincy courts administer customary law with lay judges; appeals from these lower courts are heard by the superior courts.

The rotation system between wards in specific districts continued to improve magistrate presence. However, with inexperienced new magistrates, high court fees, and fewer than 15 lawyers practicing outside of Freetown, access to justice remained limited for most citizens.

The RSLAF has its own military justice system, although soldiers can be tried in civilian courts depending on the type of crime committed. The decision on which system to use was sometimes made on an ad hoc basis and was prone to pressure from RSLAF leadership. If a case remains in military channels, military police conduct an investigation and forward their findings to the Ministry of Defense Law Office. The Law Office then decides whether to handle the offense through a summary dealing process or a court martial.

Summary dealing cases are limited to low-level military offenses, such as misappropriation of military property, unlawful possession of a firearm, and being absent without leave. The commanding officer determines the punishment, the most severe of which is a 28-day custodial sentence. The court martial hears all civilian and serious military offenses committed by military personnel, as well as cases involving senior officers. The case is tried before a judge and board; the latter determines guilt or innocence, and the former the sentencing recommendation. The court martial hears an average of four cases per year.

The military justice system has an appeals process. For summary dealing, the defendant can appeal for the redress of complaint, which goes to the next senior rank-

ing officer, while appeals in a court martial are heard by the civilian Supreme Court.

Traditional justice systems supplemented the central government judiciary, especially in rural areas. Paramount chiefs maintained their own police and courts to enforce uncoded local laws, which acted in parallel with the government's own civil police and court system. Chieftaincy police and courts exercised authority to arrest, try, and incarcerate individuals, and sometimes abused that power. However, traditional justice systems somewhat improved in rural areas during the year due to government and NGO training of traditional elders and an influx of paralegals.

Trials were generally fair; however, there was credible evidence that corruption influenced many cases. Paramount chiefs acting as judges were notorious for accepting bribes and favoring wealthier defendants, although they showed a greater willingness to discuss issues and refer cases to magistrates than in previous years (see section 4.)

Trial Procedures.—The law provides for a fair trial; however, in practice, the lack of judicial officers and facilities often produced long delays. Some cases were reported to be adjourned 40 to 60 times. Trials are public, and the accused have a limited right to a trial by jury in the magistrate courts. Juries were drawn from a list maintained by the master and registrar of active and retired civil servants and youth groups; however, the attorney general frequently exercised his power to determine that cases be heard by a judge alone. Defendants generally enjoyed a presumption of innocence. While defendants have the right to be present and to consult with an attorney in a timely manner, access to counsel often was delayed. The law provides for attorneys at public expense if defendants could not afford their own; however, state-appointed attorneys often were overburdened and poorly paid, and indigent detainees usually did not receive legal advice prior to trial. Defendants can confront or question witnesses against them, present witnesses and evidence on their own behalf, and access government-held evidence relevant to their cases. A majority of cases on the magistrate level were prosecuted by police officers, many of whom had little or no formal legal training. Although the law provides defendants with the right to appeal, the appeals process was delayed excessively, sometimes for over two years.

Human rights NGOs noted wide disparities in sentencing patterns from district to district. There were numerous cases in which sentences imposed were grossly disproportionate to the offenses. Many prisoners were serving excessively long sentences for noncapital offenses, such as sacrilege (50 years), larceny (25 years), and larceny and burglary (45 years). Many attributed the inconsistent sentencing to the defendant's ability to pay a fine or bribe.

Traditional justice systems continued to supplement extensively the central government judiciary, especially in rural areas, in cases involving family law, inheritance, and land tenure. However, the customary law guiding these courts is not codified, and decisions in similar cases were inconsistent. Paramount chiefs sometimes referred cases to the police to falsely legitimize arrests for civil complaints. Local chieftains at times exceeded their mandates and administered harsh punishments.

There are a number of civil laws and customary laws that discriminate against women, and many traditional courts continued to ignore the rights of women regarding family law and inheritance. Juveniles are afforded few rights in the traditional justice system.

Trials continued before the Special Court for Sierra Leone (SCSL) of those bearing the greatest responsibility for crimes against humanity, war crimes, and other serious violations of international law committed during the civil war. On October 31, the eight individuals convicted of war crimes by the tribunal were transferred to Rwanda to serve their sentences.

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

Civil Judicial Procedures and Remedies.—Both the central government judiciary and customary law courts handled civil complaints; however, corruption influenced some cases and sentencing was inconsistent. Administrative and judicial remedies were available for alleged wrongs, but enforcement was difficult. Victims of human rights abuses have access to the regular courts to seek redress for human rights violations.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and law prohibit such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution and law provide for freedom of speech and of the press; however, the government at times restricted these rights in practice. Journalists practiced self-censorship.

The government rarely attempted to impede criticism, although some believed that political figures used sympathetic media outlets to target their opposition. One editor noted an incident in which high-level government officials threatened to sue a paper if it did not retract a critical story. When the paper stood by its reporting, the officials backed down but asked that the paper publish a progovernment article to compensate for the bad press. There were also reports of interference by local government officials in the provinces.

The Attitudinal and Behavioral Change Secretariat, under the purview of the Office of the President, urged musicians to perform songs that would help rebrand the country and discouraged disk jockeys from playing songs critical of the government. This encouraged self-censorship by radio stations concerned about losing their licenses.

More than 88 newspapers were registered with the Independent Media Commission (IMC), and during the year many were published in Freetown, covering a wide spectrum of interests and editorial opinion. Most of the newspapers were independent, and several were associated with political parties. Reporting was often politicized and inaccurate, in large part because of poor journalistic skills, insufficient resources, and the lack of professional ethics. Corruption among journalists was widespread. While sometimes subject to official pressure and restrictions, newspapers openly and routinely criticized the government and its officials as well as the opposition parties. Newspapers also libeled individuals.

International media could operate freely but were required to register with the Ministry of Information and Broadcasting, and the IMC to obtain a license. Five new local newspapers registered with the IMC during the year. Although the IMC instituted stricter registration requirements, during the year there were no cases of local or international media being denied registration.

The law criminalizes both defamatory and seditious libel; however, the law rarely was applied. Punishment for first-time offenders can be up to three years' imprisonment, and subsequent seditious libel convictions are punishable by prison terms of up to seven years. The IMC and the Sierra Leone Association of Journalists (SLAJ) continued to lobby parliament without success to amend the law, and the SLAJ filed a lawsuit with the Supreme Court asking it to rule on the law's constitutionality. On November 10, the Supreme Court upheld the libel portions of the law. The ruling makes a future repeal of the law in its entirety difficult since it would give the appearance of executive interference in judicial independence.

The IMC regulated independent media organizations and generally demonstrated independence from government influence. During the year the IMC considered multiple claims of libel or false reporting in various newspapers, but some members of the media opined that the IMC failed to exercise its authority effectively or enforce the law.

Due to the low level of literacy and the relatively high cost of newspapers and televisions, radio remained the most important medium for public dissemination of information. During the year more than 80 government and private radio and television stations provided domestic news and political commentary. The APC and the Sierra Leone People's Party (SLPP) set up radio stations; however, the vice president shut them down in the wake of the March riots, since they were used to incite political violence and hysteria (see section 2.b.). The IMC objected to this unilateral action, although the executive branch has the power to make such decisions if national security is at stake. The IMC ultimately approved the decision, and the stations remained closed at year's end. UN Radio provided additional coverage of news and other current events.

Internet Freedom.—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. There were at least five Internet service providers in the country. In Freetown there were many Internet cafes but few in rural areas due to infrastructure constraints. According to International Telecommunications Union statistics for 2008, less than 1 percent of the country's inhabitants used the Internet.

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

b. Freedom of Peaceful Assembly and Association.—*Freedom of Assembly.*—The constitution and law provide for freedom of assembly, and the government generally

respected this right in practice. As in the previous year, there were no reports that the government monitored or prevented opposition meetings.

On March 13 and 16, riots occurred outside and within the SLPP party headquarters. Ruling APC and opposition SLPP supporters clashed on both occasions, and APC supporters stormed the SLPP building, destroyed furniture and equipment, and burned vehicles. Women were allegedly raped during the March riots and many criticized police for their perceived inability to handle the event. Some police officers allegedly colluded with the rioters. An independent investigation concluded there was insufficient evidence to prove the rape charges, and complaints made against the police to the CDIID were forwarded to the Department of Public Prosecutions for possible civil legal action. At year's end there were no further developments.

On other occasions police forcibly dispersed demonstrators, resulting in injuries. Police occasionally were unable to control violence, and demonstrators at times attacked police stations.

In September a community angry at perceived police ineffectiveness in handling a recent crime spree attacked a small local station; one officer opened fire on the crowd, killing three. The situation remained under investigation at year's end.

Freedom of Association.—The constitution and law provide for freedom of association, and the government generally respected this right in practice; however, there were some reports that the government under the ruling APC denied members of opposition parties the right to demonstrate publicly against government policies.

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

Societal Abuses and Discrimination.—There were no reports of discrimination against members of religious groups. In April a church was burned in Kambia Province, but a subsequent government investigation revealed that the cause of the incident was community-based secular strife, rather than religious intolerance.

There reportedly was a small Jewish community; there were no reports of anti-Semitic acts.

An application filed in 2006 to the Inter-Religious Council for official recognition of the approximately 20 Jews in Makeni lapsed during the year.

For a more detailed discussion, see the 2009 International Religious Freedom Report at <http://www.state.gov/j/drl/rls/irf/>.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice; however, there were reports that police officers who operated security roadblocks outside of the capital often extorted money from motorists.

The border shared with Liberia was officially open, and authorities generally allowed refugees, returnees, and other persons to move regularly between the two countries; however, police, customs, and army personnel demanded bribes at border crossing points.

The law does not provide for forced exile, and the government did not use it.

Protection of Refugees.—The laws provide for the granting of asylum or refugee status in accordance with the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. The government has established a system for providing protection to refugees and has cooperated with the UN High Commissioner for Refugees (UNHCR) and other organizations in assisting refugees.

The law provides for refugee status as defined by international convention to be granted to eligible asylum seekers. The UNHCR worked with government authorities to develop standard operating procedures for refugee status determination.

In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

According to the UNHCR, the government did not provide temporary protection to certain individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol.

The government assisted the safe, voluntary return of Liberian refugees to Liberia and facilitated local integration for Liberian refugees unwilling or unable to return to their homes.

There were no further developments in the 2007 sexual abuse case of two Liberian refugee minors or the rape of host community minors by a refugee in Tobanda Refugee Camp.

There were no reports of discrimination against refugees with regards to employment, access to social services, and arbitrary arrest.

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

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

Elections and Political Participation.—In peaceful presidential and parliamentary elections held in August and 2007, the opposition APC won a majority in parliament, with party leader Ernest Bai Koroma elected president. There were multiple reports of harassment and intimidation of members of opposition parties. There were also reports of voter coercion by party bosses and traditional leaders. Domestic and international observers characterized the elections as generally free and fair, noting that irregularities did not affect the outcome.

The Political Parties Registration Commission (PPRC), which governed the behavior of political parties, does not have the authority to sanction any political party for inappropriate behavior. It received ten inter- and intra-party complaints during the year and acted as a mediator to address the problems. The PPRC can only use moral suasion to convince people and parties to act according to agreed-upon guidelines, such as the parties' constitutions.

A parallel unit of local government is the paramount chief, who is elected for a life term. Candidates for the position are limited to members of local ruling houses. Only tribal authorities (those who collected local taxes from at least 20 taxpayers) were allowed to vote for paramount chief, and in the north only men could be designated as tribal authorities. Although paramount chiefs' authority exists independently of the central government and local councils, they frequently displayed party affiliations, were influenced by the party in power, and allegedly influenced the votes of their constituents. In turn, political parties were known to interfere with paramount chief elections during the year. The election of paramount chiefs at times exacerbated ethnic tensions.

Women are permitted to vote, but husbands or other patriarchal figures are known to influence their decisions. Of the 124 parliamentarians, 16 were women. Women held two of the 20 cabinet positions. There were four female judges out of seven judges on the High Court, and the chief justice was a woman. Three out of six judges on the Court of Appeal were women. Only citizens can vote, and the law restricts the acquisition of citizenship at birth to persons of "patrilineal Negro-African descent." Legal requirements for naturalization effectively denied citizenship to many long-term residents, and a large number of persons of Lebanese ancestry who were born and resided in the country could not vote. While a small percentage of the Lebanese population was naturalized during a previous period of government leniency, some insisted that naturalization implied second-class citizenship and refused to vote.

Ethnic affiliations traditionally have been a strong influence in political party membership for the country's two dominant ethnic groups, the Mende and Temne, each of which included approximately 30 percent of the population. The Mende traditionally supported the SLPP and the Temne the APC. Other than ethnic Limbas, the third most populous ethnic group who traditionally have supported the APC, the country's other ethnic minority groups had no strong political party affiliations. The new cabinet consisted of 11 Temnes, two Mende, two Fullah, two Limbas, and three Krios.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government attempted to implement the law effectively. Corruption in the executive, legislative, and judicial branches was widespread, and officials sometimes engaged in corrupt practices with impunity. Low salaries and a lack of accountability exacerbated official corruption. The World Bank's most recent Worldwide Governance Indicators reflected that corruption was a severe problem.

The Anticorruption Commission (ACC) made some progress in curbing corruption during the year and in improving transparency by enforcing the new offenses, tougher penalties, and broader prosecutorial powers of the law.

During the year the government implemented its five-year national action plan to combat corruption, and ministries began including anticorruption activities into their strategic plans. The ACC conducted sensitization campaigns with the public and government ministries, and enforced whistleblower protection measures.

Corrupt procurement practices were a problem, and several ministries were under investigation during the year. In September the ACC released a report with a num-

ber of recommendations for the Ministry of Education noting in particular the presence of “ghost teachers,” aid mismanagement, and illegal charges.

On November 4, the ACC indicted the Minister of Health and Sanitation, Sheiku Tejan Koroma, on three charges of corruption, including abuse of public office, abuse of public position, and failure to comply with government procurement laws and policies. At year’s end the minister was on administrative leave while the court addressed the matter. This was the first time the ACC had indicted a sitting member of government or used the abuse of public office and public position as offenses.

On December 21, a press release from State House announced that the commissioner general of the National Revenue Authority was ordered on leave pending an investigation by the ACC. There were no further developments at year’s end.

During the year the ACC recovered more than two billion leones (\$500,000) from public officers and private business officials as settlement for corruption-related cases. Many cases either were settled out of court, or defendants chose to pay fines rather than face a custodial sentence. The ACC also convicted prominent government workers, including education officials and the former ombudsman. During the year a total of 10 cases of corruption were forwarded to the Ministry of Justice for authorization to prosecute; five received authorization, and five were pending at year’s end.

The law also provides for public officers, their spouses, and children to declare their assets and liabilities to encourage integrity in public life. The president declared his assets the day the law came into force in 2008, and all other public servants were required to declare their assets before year’s end. While this process was significantly delayed, most government agencies complied fully by year’s end.

There is no provision in the law for public access to government information; however, the government at times provided access to citizens and noncitizens, including foreign media.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated with few government restrictions, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

The National Forum for Human Rights (NFHR) served as an umbrella organization for human rights groups in the country. There were 41 human rights NGOs registered with the NFHR, and all reportedly were active. Most domestic human rights NGOs focused on human rights education. A few NGOs, including the Campaign for Good Governance, LAWCLA, and Access to Justice, monitored and reported on human rights abuses.

Human rights monitors traveled freely throughout the country. Representatives of international and domestic NGOs, foreign diplomats, and UN human rights officers monitored trials and visited prisons and custodial facilities during the year.

The National Human Rights Commission generally operated without government interference; however, government agencies were slow to support the commission, and it also was hampered by lack of funds. The commission’s annual report on the status of human rights recommended, among other things, abolishing the death penalty, repealing the Public Order Act, allowing the IMC to operate without interference, introducing a temporary court to address case backlogs, increasing funding for agencies and NGOs involved in human rights, and making the protection of women’s and children’s rights a priority.

The Parliamentary Human Rights Committee was active in protecting human rights, and it operated without government or party interference. The committee focused on keeping human rights issues on the parliamentary agenda, paving the way for the passage of amended laws and ratification of international conventions, and doing public outreach.

The trial before the SCSL in The Hague of former Liberian president Charles Taylor resumed in January and was ongoing at year’s end.

The trial phase of the case against Revolutionary United Front leaders Issa Sesay, Morris Kallon, and Augustine Gbao ended in 2008, and the judgment delivered in February found Sesay and Kallon to be guilty on 16 counts and Gbao guilty on 14 counts of war crimes, crimes against humanity, and other serious violations of international humanitarian law. The October 26 appeals judgment upheld all 16 counts against Sesay and Kallon but overturned Gbao’s conviction for collective punishments. The appeals court also found Gbao not guilty of one of the two attacks on UN peacekeepers. The judgment did not impact the sentences of 52, 40, and 25 years for Sesay, Kallon, and Gbao respectively.

Recommendations were being implemented of the Truth and Reconciliation Commission (TRC), established to provide a forum for publicly airing the grievances of victims and the confessions of perpetrators during the civil war. The Human Rights Commission continued its work, including efforts at enforcement of the Child Rights Bill, and three gender bills. There was increased use of its human rights violations reporting system. The government took steps to implement a reparations program for the victims of the conflict as recommended by the TRC. Efforts were underway to establish a trust fund for war victims. However, many NGOs continued to be disappointed at the slow implementation of some of the TRC recommendations, such as the trust fund and separating the positions of attorney general and minister of justice, which would require a constitutional amendment.

The UN and numerous domestic and international NGOs continued to educate and sensitize the population about the TRC and the SCSL, and the government generally supported these efforts.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Citizenship is generally limited to persons of "patrilineal Negro-African descent," but the law otherwise prohibits discrimination based on race, tribe, sex, place of origin, political opinions, color, or creed. However, the government did not effectively enforce these provisions, and a number of legal acts and customary laws contravene these constitutional provisions.

Women.—The law prohibits rape, which is punishable by up to 14 years' imprisonment; however, rape was common and viewed more as a societal norm than a criminal problem. The law does not specifically prohibit spousal rape. Cases of rape were underreported and indictments were rare, especially in rural areas. This reluctance to pursue justice for women, combined with a lack of women's income and economic independence, helped perpetuate a cycle of violence and a culture of impunity for violence against women. Since the establishment of the Family Support Units (FSUs) and the passage of the Gender Acts in 2007, however, reports of rapes, especially involving child victims, steadily increased. Rapes of children as young as a few months old were documented. An NGO providing services to rape victims reported that 6 to 7 percent of the cases seen involved victims under age five. Rape victims, especially when pregnancy occurred, were encouraged to marry their attackers, although some NGOs reported that this practice appeared to be waning.

During the year the FSU recorded 1,186 cases of sexual assault. In these cases, 437 perpetrators were charged, while 555 were still under investigation. The International Rescue Committee (IRC) reported that at least 25 cases resulted in convictions, with perpetrators receiving sentences between 18 months and seven years. Rape cases frequently were settled out of court or did not make it to trial because of inefficiencies in the judicial system. Most legal advisors assigned to prosecute rape cases had only three weeks' training and could not compete against well-trained defense lawyers. Most perpetrators were known to their victims and included teachers, family friends, relatives, traditional leaders, and neighbors. The JSDP noted an increase in adolescent boys as perpetrators.

Medical and psychological services for rape victims were limited. Rape victims were required to obtain a medical report to file charges, and for examinations, reports, and court appearances. Most government doctors charged 10,000 to 70,000 leones (\$2.50 to \$17.80), fees which were prohibitively expensive for most victims. The IRC ran Rainbo Centers in Freetown, Kenema, and Koidu to perform medical examinations, provide counseling for victims of sexual assault, and offer legal assistance for victims who wanted to prosecute their cases. However, these Rainbo Centers were the only such centers in the country and many victims had no access to medical attention or services. During the year the Rainbo Centers worked with 1,235 sexual assault clients, the vast majority of whom were 11-15 years old, with almost all under 20 years of age. Approximately 7 percent of the victims were between one and five years old, with the youngest client only one year old at the time of the incident.

Domestic violence against women, especially wife beating and rape, was common and often surrounded by a culture of silence. The police were unlikely to intervene in domestic disputes except in cases involving injury or death. The SLP used mediation as their primary tool for handling domestic violence, although the law provides for up to two years' imprisonment and a fine up to five million leones (\$1,272), or both. During the year the FSUs noted that 2,738 women reported domestic violence. In these cases, 360 perpetrators were charged, and 1,434 were under investigation at year's end. The FSU does not maintain statistics on conviction rates, but NGO reports indicate few perpetrators were convicted due to poorly trained prosecutors and out-of-court settlements. Awareness of the law has resulted in an increase in reported cases in urban areas; however, most human rights organizations note that

domestic violence continues to be most prevalent and largely underreported in the northern provinces.

According to the United Nations Children's Fund (UNICEF), the majority of women felt that domestic beating was justified for actions such as going out without telling a husband, neglecting the children, refusing sex, or burning food. Women suspected of marital infidelity often were subjected to physical abuse. Because husbands could claim monetary indemnities from their wives' partners, beatings often continued until the women named several men, even if there were no such relationships. There were also reports that women suspected of infidelity were required to undergo animistic rituals to prove their innocence.

Prostitution was widespread and not prohibited by law; however, prostitutes occasionally were arrested and charged with loitering or vagrancy. Many women and girls, particularly those displaced from their homes and with few resources, resorted to prostitution to support themselves and their children.

Sexual harassment is not specifically prohibited by law, and it was widespread.

Women and men generally were free to decide the timing, number, and spacing of their children: 70 percent of women and couples who practiced family planning made independent decisions, while 30 percent reported that other influences and pressures, such as family and religion, were determinant factors. The Ministry of Health and Sanitation reported 128,000 new clients for family planning services, and long-term and permanent treatments, such as intrauterine devices (IUDs) and tubal ligation, increased in popularity. Statistics showed, however, that the contraception prevalence rate ranged from 8 to 20 percent, and of the women using family planning methods, 51 percent did not discuss it with their partners.

The Ministry of Health and Sanitation and NGOs did their best to meet the demand for oral contraceptives, but government shipments frequently were pilfered. Rural women and families rarely were served by outreach teams. Organizations also battled misconceptions about family planning, particularly in rural areas; many parents believed contraceptives would prevent pregnancy later in life and refused treatment for their sexually active teenage children.

Approximately 25 percent of women gave birth in hospitals, according to a 2008 government study, and 45 percent were delivered by a health professional. Urban mothers were more than twice as likely to receive medical assistance during delivery as rural mothers (67 versus 33 percent). However, few hospitals in each district offered the full array of obstetric and postpartum services. Most women did not have access to transportation to make regular doctor's visits or lived in locations where few services were offered. Women also rarely had equal access to family finances, and male partners did not always see pre- and post-natal care as a priority.

Women were more frequently diagnosed than men with sexually transmitted infections and HIV/AIDS because they were tested as part of their obstetric care. Men were more likely to wait for testing until they exhibited physical symptoms. There was an active government campaign to test more women during the prenatal period.

The law on customary marriages and divorce empowers either spouse to acquire property and guarantees that gifts, payments, or dowries upon marriage are non-refundable, allowing women in unhappy marriages to divorce without being forced to return dowries.

The law provides for intestate succession including the transmission of property to the deceased's spouse and/or children as well as to single persons who cohabited with the deceased for 10 or more years. One noticeable problem with the law was its definition of "property" as mutually owned land; since land outside of Freetown is often communal or family property, it was difficult to prove that a couple owned the land together and that the wife thus had a right to it.

Throughout the year the Ministry of Social Welfare, Gender, and Children's Affairs rolled out its action plan for the implementation of the law, but little progress was made beyond sensitization. At year's end the government had not given the forms or training to paramount chiefs and local magistrates to register persons under the law, nor had it implemented any of the Acts.

Women faced widespread legal and societal discrimination, particularly in matters of marriage, divorce, property, and inheritance, which are guided by customary law in all areas except for the capital. Formal laws apply in customary as well as formal courts, but customary judges had limited or no legal training and often were unaware or could choose to ignore formal laws. Chiefs sometimes colluded with men to evict women and children forcibly from their homes or to subject them to arbitrary detention. In some cases chiefs imposed arbitrary and exorbitant fines, imprisoned women unlawfully in their homes or "chiefdom jails," and expelled them from the community. The women's rights and status under customary law varied significantly depending upon the ethnic group to which they belonged, but such rights and status were routinely inferior to that of men. Under customary law, women's status

in society is equal to that of a minor. A woman is frequently perceived to be the property of her husband, to be inherited on his death with his other property. In rural areas polygyny was widespread; UNICEF estimated in 2007 that 43 percent of women were involved in polygynous unions. All women in the Western (Freetown) Area, which is governed by general law, had a statutory right to own property in their own names. However, women in the provinces, which are governed by customary laws that vary from chiefdom to chiefdom, did not.

In the Temne ethnic group, women could not become paramount chiefs, subordinate chiefs, or chiefdom authorities; however, in the Mende tribe, there were several female leaders. Every local council had at least one female representative.

Women did not have equal access to education, economic opportunities, health facilities, or social freedoms. In rural areas women performed much of the subsistence farming and had little opportunity for formal education. According to a 2008 government survey, 66 percent of women had never been to school, compared to 50 percent of men. Women also experienced discrimination in access to employment, and it was common for a woman to be dismissed if she became pregnant during her first year on the job. Further discrimination occurred in access to credit, pay for similar work, and the ownership and management of a business.

The Ministry of Social Welfare, Gender, and Children's Affairs has a mandate to protect the rights of women; however, the government cut the ministry's budget despite increasing its responsibilities. Most international and domestic NGOs complained that the ministry lacked the resources, infrastructure, and support of other ministries to handle effectively its assigned projects. The ministry routinely relied on the assistance of international organizations and NGOs to help combat women's rights violations.

Women were active in civic and philanthropic organizations. Domestic NGOs, such as 50/50, the Forum for African Women Educationalists, and the Women's Forum, raised awareness of the lack of gender equality and other women's issues, and they encouraged women to enter politics as candidates for mayoral positions and local councils.

Children.—Citizenship is derived by birth to Sierra Leonean parents and restricted to persons of "patrilineal Negro-African descent." Children not meeting the criteria must be registered in their parents' countries of origin.

Birth registration was not universal; however, lack of registration did not impact access to public services.

Primary school education is tuition-free countrywide, and secondary school education is tuition-free for girls in the north. However, many parents were unable to put their children through primary school because they could not afford school uniforms, books, and fees charged by school authorities. The average educational level for girls was markedly below that of boys, and only 25 percent of women were literate. At the secondary level, pregnancy forced many girls out of school. New laws were enacted to allow girls to return to school after giving birth, but many communities did not abide by these.

Sexual violence against children was a growing problem, and the government took few steps to address the issue. The FSUs are trained in dealing with sexual violence against children, and cases of child sexual abuse generally were taken more seriously than adult rape cases. However, in many cases of sexual assault against children, parents accept payment instead of taking the perpetrator to court due to difficulties dealing with the justice system, fear of public shame, and economic hardship. Although the FSUs were seen to be improving their ability to prevent and respond to cases, the conviction numbers remained very low.

No law specifically prohibits FGM, and it was practiced widely. However, NGOs reported a decline in the practice, likely due to increased awareness and interventions. UNICEF and other groups estimated that 80 to 90 percent of women and girls had been victims of the practice. FGM was practiced on girls as young as two years old, and many NGOs reported cases in which toddlers underwent FGM because their young age made it cheaper for parents.

Although police occasionally detained practitioners on accusations of forced mutilation or manslaughter, human rights workers reported that police remained hesitant to interfere in cultural practices. The FSUs successfully rescued several girls in Bo and Kenema who were about to be forcibly mutilated.

The investigation into the October 2008 death of a 10-year old girl in Port Loko District claimed that there was no proof that FGM caused the death.

It is illegal to subject anybody under the age of 18 to harmful treatment, including any cultural practice that dehumanizes or is injurious to the physical and mental welfare of the child; however, the law does not explicitly address FGM. The law prohibits marriage of girls under the age of 18, including forced marriage. Despite

the new legislation, forced child marriage continued to be a problem. UNICEF estimated that 62 percent of females under the age of 18 were married.

The law also provides for the creation of family courts and child committees at the local government level, but NGOs reported that significant work remained to be done to establish such entities nationwide. There are 70 child welfare committees across the country, but they were not fully functioning. As of October the FSU reported 136 cases of child cruelty, of which nine had been charged in court. There were no convictions.

Child prostitution continued to be a growing problem. A UNICEF analysis of Freetown and Bo indicated that over half of the street children survived through prostitution. NGOs stated that there appears to be little political will to address the problem effectively.

The number and plight of street children were problems. Many were forced to engage in prostitution, in addition to petty trading and other economic activities to survive and were vulnerable to trafficking and other exploitive practices.

According to UNICEF there were 54 residential homes for 1,800 orphans. The quality of care at the facilities varied, but most of those that failed to meet minimum standards were shut down. Each facility provided at least one meal a day, some health care, and some type of education. The regulatory framework for licensing new orphanages had not been approved by the Law Office at year's end.

Trafficking in Persons.—The law prohibits trafficking in persons for all purposes; however, there were reports that persons were trafficked to, from, and within the country.

The country continued to be a source, transit point, and destination for internationally trafficked persons. The majority of victims were women and children, and the majority of traffickers were family members or friends who lured victims from their home villages with false promises of education, care, or employment. Orphaned children were the most vulnerable population for trafficking. There was no evidence of trafficking through employment agencies, organized crime, or marriage brokers. NGOs reported that boys increasingly were becoming victims but were generally unnoticed because they were not the targets of sexual exploitation. However, boys were more likely than girls to attempt to escape from traffickers or seek help.

Reports indicated that women and children were trafficked from the provinces to work in the capital or in diamond areas as laborers and commercial sex workers. Persons were trafficked from neighboring countries for forced domestic and street labor, forced begging, and for sexual exploitation. Persons were trafficked out of the country to destinations in West Africa, including Liberia and Nigeria for labor and sexual exploitation; persons were also trafficked to Lebanon, Europe, and North America; and the country also served as a transit point for persons trafficked from elsewhere in West Africa. According to a center for street children, 80 to 90 percent of the cases they dealt with involved internal trafficking.

A person convicted of trafficking could be sentenced up to 10 years in prison. During the year the FSUs reported 38 cases of human trafficking, of which more than half were girls under the age of 16. In the cases reported, 12 individuals were charged with trafficking, but none was convicted.

In October Abdul Aziz Bandu was sentenced to 22 years for trafficking, harboring, and sexually exploiting three girls in Bo.

There were no further developments in the 2007 case of two minors, Abu Bakarr Koroma and Nasira Mansaray, who were arrested for trafficking a five-year-old boy.

A number of government agencies, including the SLP, Ministry of Social Welfare, Gender, and Children's Affairs, the Immigration Department, and the Office of National Security, are responsible for combating trafficking. The government assisted in reintegrating trafficking victims when requested. There were no known requests for assistance with international investigations or extraditions.

Document fraud was common and government registry officials, police, immigration officials, and border guards frequently accepted bribes. Although there was no proof that forged documents were used to facilitate trafficking, government officials who forged documents such as birth, marriage, and death certificates rarely suffered punishment.

The country's only shelter for trafficking victims, run by the International Organization for Migration, closed during the year due to lack of funding, negatively impacting the efficacy of the victim referral network. The shelter had served 24 victims at the time of closure.

Government officials continued to work with NGOs on trafficking-related issues and attended NGO training sessions on trafficking. The Ministry of Social Welfare, Gender, and Children's Affairs and the SLP publicly supported NGO antitrafficking efforts. However, the trafficking secretariat established by the 2005 law was yet to

be funded, and the three-year work plan developed by the antitrafficking task force remained largely unfunded.

The State Department's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The law does not prohibit discrimination against persons with physical and mental disabilities, and offers no specific protections for such persons. The law does not mandate accessibility of buildings or assistance to disabled persons. There was no government policy or program to assist persons with disabilities; public facility access and discrimination against persons with disabilities were not considered public policy priorities.

There was no outright discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. However, given the high rate of general unemployment, work opportunities for persons with disabilities were few, and begging by persons with disabilities was commonplace. Children with disabilities were also less likely to attend school than other children due to the lack of an official inclusive education policy.

There is considerable stigma against people with mental health issues. The Kissy Mental Hospital served approximately 125 residential patients and 4,000 outpatients, although it was believed that more than 400,000 citizens need psychiatric care. The hospital lacked beds and mattresses for its patients and could not provide sufficient food to sustain them. The hospital used expired medications, did not provide rehabilitative therapy, and had no running water and only sporadic electricity due to a lack of financial resources. Patients were chained to their beds until they proved that they are not destructive, and sexual violence and consensual sex between patients was common since there were no barriers between the men's and women's wards.

The Ministry of Health and Sanitation is responsible for providing free primary health care services to people with polio and diabetic retinopathy as well as those who are blind or deaf. However, these services were not provided consistently, and organizations reported that many people with disabilities had limited access to medical and rehabilitative care. The National Committee for Social Action provided some support through limited programs to vulnerable communities. The Ministry of Social Welfare, Gender, and Children's Affairs is meant to provide policy oversight for issues impacting people with disabilities but has limited capacity to do so.

Some of the many individuals maimed in the civil war, including those who had their limbs amputated by rebel forces, received special assistance from local and international humanitarian organizations. Such programs involved reconstructive surgery, prostheses, and vocational training to help victims acquire new work skills; however, amputees complained that they did not receive sufficient assistance compared to former combatants, who received aid through the demobilization process. In response to TRC recommendations, the government accepted in principle the need to develop an aid program for war wounded, amputees, and victims of sexual violence; however, assistance to these groups remained limited and mostly funded by outside entities.

National/Racial/Ethnic Minorities.—The ethnically diverse population consisted of about 18 ethnic groups of African origin, many of whom spoke distinct languages and were concentrated outside urban areas. In addition there were significant Lebanese and Indian minorities, and small groups of European and Pakistani origin. Little ethnic segregation was apparent in urban areas, where interethnic marriage was common. The two largest ethnic groups were the Temne in the north and the Mende in the south. These groups each constituted an estimated 30 percent of the population; however, the Krio, who make up 7 percent of the population, have historically dominated the civil service and judiciary. Strong ethnic loyalties, bias, and stereotypes existed among all ethnic groups. The Temne and Mende have vied historically for political power, and the violence during the 11-year civil war had some ethnic undertones. Ethnic loyalty remained an important factor in the government, armed forces, and business. Complaints of ethnic discrimination in government appointments, contract assignment, and military promotions were common with the former SLPP and current APC ruling parties.

Residents of non-African descent faced institutionalized political restrictions. Legal requirements for naturalization, such as continuous residence in the country for 15 years, or the past 12 months and 15 of the previous 20 years, effectively denied citizenship to many locally born residents, most notably members of the Lebanese community.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The constitution does not offer protection from discrimination based on sexual orientation. A law from 1861 still in force prohibits male homo-

sexual acts; however, there is no legal prohibition against female-to-female sex. The 1861 law carries a penalty of life imprisonment for indecent assault upon a man or 10 years for attempts of the crime. However, the law was not enforced in practice due to the secrecy surrounding homosexual conduct and the tendency for communities to handle the issue through discrimination rather than enforcement.

There are only a few organizations working to support gay, bisexual, lesbian, and transgender persons. Because such individuals were not culturally accepted, particularly among men, the groups must remain underground and hidden for fear of discrimination or violence against their members. Gay pride parades and other public displays of solidarity could not safely take place. There were unofficial reports of beatings by police and others, particularly targeting men dressed as women, but formal complaints were not filed due to fear of reprisal. Lesbian girls and women were also victims of "planned rapes" that were initiated by family members in an effort to change their sexual orientation.

Social discrimination based on sexual orientation occurs in nearly every facet of life for known gays and lesbians, and many choose to have heterosexual relationships and family units to shield them. In the areas of employment and education, sexual orientation is the basis for abusive treatment, which has led individuals to leave their jobs or courses of study. It is difficult for gays and lesbians to receive the health services they need, due to fear that their confidentiality rights would be ignored if they were honest about their ailments; many choose not to be tested or treated for sexually transmitted infections. Secure housing is also a problem, both for young and mature gays, lesbians, bisexuals, and transgender persons. Gay children frequently are shunned by their families, leading some to turn to prostitution to survive. Adults can lose their leases if their sexual orientation becomes public.

Other Societal Violence or Discrimination.—The law prohibits discrimination based on actual, perceived, or suspected HIV status; however, persons with HIV/AIDS were stigmatized in society. There was no official discrimination against HIV/AIDS positive persons, but NGOs reported children were denied access to education because of their HIV status. HIV/AIDS positive adults lacked employment and promotion opportunities. There were also reports that men often divorced their HIV/AIDS positive wives, leaving them without financial support.

An NGO reported that a woman had recently been beaten by her common-law partner when her HIV status was discovered. However, reports of violence against HIV/AIDS positive persons were uncommon; families were instead more likely to abandon them. NGOs noted that, due to discrimination and stigmatization, those living with HIV/AIDS sometimes chose suicide rather than facing their communities.

Section 7. Worker Rights

a. The Right of Association.—The law allows workers to join unions of their choice without prior authorization or excessive requirements; however, it prohibits civil service employees, police, and members of the armed services from joining unions. The law allows unions to conduct their activities without interference, and the government generally protected this right; however, in some private industries employers were known to intimidate workers to prevent them from joining a union. By year's end the government had not granted a bargaining certificate to the Civil Servants' Union, whose application had been on file since 1986. According to the Ministry of Labor, approximately 35 to 40 percent of workers in the formal economy were unionized, including mainly agricultural workers, mineworkers, and health workers. Unions have the right to strike, although the government could require 21 days' notice, and workers exercised this right in practice. The law does not prohibit retaliation against strikers, even for a lawful strike.

b. The Right to Organize and Bargain Collectively.—The law provides for collective bargaining, and the government protected this right in practice. Collective bargaining must take place in trade group negotiating councils, each of which had an equal number of employer and worker representatives. Collective bargaining was widespread in the formal sector, and most enterprises were covered by collective bargaining agreements on wages and working conditions. No reliable data was available on the percentage of workers covered by collective agreements.

The law does not prohibit antiunion discrimination against union members nor employer interference in the establishment of unions; however, during the year there were no reports of such occurrences.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced and compulsory labor, including by children; however, the government did not effectively enforce the law. Under the law, individual chiefs may impose forced labor as punish-

ment and have done so in the past; however, there were no reported occurrences during the year. Chiefs also may require villagers to contribute to the improvement of common areas, a practice that occurred in rural areas. There is no penalty for noncompliance.

d. Prohibition of Child Labor and Minimum Age for Employment.—Almost half of children aged 14-15 years were engaged in some form of child labor. The rate varied from 27 percent in urban areas to 57 percent in rural areas. The law limits child labor, allowing light work at age 13, full-time work at age 15, and hazardous work at age 18. The law states that children under 13 should not be employed in any capacity; however, enforcement was not effective.

Children aged 15 may be apprenticed (provided they have finished schooling) and employed full-time in nonhazardous work. The law also proscribes work by any children under 18 between 8 p.m. and 6 a.m. The law sets health and safety standards and requires school attendance through the age of 15, but the government did not enforce this. Many of the laws were not enforced because of lack of knowledge, societal perception of children's roles, and poverty.

In many cases children worked alongside parents or relatives, and these children abandoned educational or vocational training. There were no reports that authorities conducted any child labor inspections during the year.

In rural areas children worked seasonally on family subsistence farms. Children also routinely assisted in family businesses and worked as petty vendors. Adults engaged street children to sell, steal, and beg. Because the adult unemployment rate remained high, few children were involved in the industrial sector or elsewhere in the formal economy.

There were reports that foreign employers hired local children to work as domestic laborers outside the country at extremely low wages and in poor conditions. The Ministry of Social Welfare, Gender, and Children's Affairs was responsible for reviewing the issuance of passports to minors but did not do so effectively, and the prevalence of document fraud made effective government oversight difficult.

There were reports that children whose parents sent them to friends or relatives in urban areas for education were forced to work on the street. There also were reports that adults asked orphanages for children to be used as household help.

Many girls, particularly those displaced from their homes and with few resources, resorted to prostitution as a means to support themselves.

In remote villages children are made to carry heavy loads as porters, resulting in stunted growth and development. Children are also engaged in sand mining, fishing, hawking, diamond mining, and prostitution. While the law prohibits forced and bonded labor by children, the government did not effectively enforce the law, and child labor remained a problem. Forced and child labor occurred on a limited basis in diamond mining.

The Ministry of Labor was responsible for enforcing child labor laws. The Ministry of Mineral Resources enforced regulatory prohibitions against the worst forms of child labor. The ministry also was charged with protecting children working in the diamond mining areas; however, enforcement was not effective.

The Freetown City Council contributed non-financial support to programs that provided free schooling and services to at-risk youth.

e. Acceptable Conditions of Work.—The national minimum wage, covering all occupations including in the informal sector, was set at 25,000 leones (\$6.35) per month, which did not provide a decent standard of living for a worker and family. The Ministry of Labor is responsible for enforcing the minimum wage, but it lacked the resources to do so effectively, and compliance was difficult to monitor in the informal sector. Most workers supported an extended family. It was common to pool incomes and to supplement wages with subsistence farming and child labor.

Although not stipulated by law, the standard workweek was 40 hours (60 hours for security personnel). Employers negotiated work hours with employees at the time of hiring, and overtime was to be paid if an employee's work hours exceeded the standard workweek. There was no prohibition on excessive compulsory overtime.

The Ministry of Health and Sanitation was responsible for setting and enforcing health and safety standards. Although the government set these standards, it lacked the funding to enforce them properly. Trade unions provided the only protection for workers who filed complaints about working conditions. Initially a union could make a formal complaint about a hazardous working condition. If this complaint was rejected, the union could issue a 21-day strike notice. However, no such actions were reported during the year. Workers who removed themselves from dangerous work situations without making a formal complaint risked being fired.

The law protects both foreign and domestic workers; however, there were fewer protections for illegal foreign workers.

SOMALIA

Somalia¹ has an estimated population of seven million. The territory, which was recognized as the Somali state from 1960 to 1991, was fragmented into regions led in whole or in part by three distinct entities: the Transitional Federal Government (TFG) in Mogadishu; the self-declared Republic of Somaliland in the northwest; and the semiautonomous region of Puntland in the northeast. The TFG was formed in late 2004, with a five-year transitional mandate to establish permanent, representative governmental institutions and organize national elections. In January an expanded Transitional Federal Parliament (TFP) extended the TFG's mandate until August 2011. For the first time, the Transitional Federal Institutions were all located in Mogadishu after the TFP relocated from Baidoa in February.

A political process to establish peace and stability in the country progressed as the TFG and the Alliance for the Reliberation of Somalia continued to implement the terms of the Djibouti Agreement, signed in August 2008; however, significant problems remained. The withdrawal of Ethiopian National Defense Forces (ENDF) opened the political space for elections and the establishment of a new TFG administration led by President Sheikh Sharif Sheikh Ahmed. The TFG assumed control of some of the strategic positions in Mogadishu formerly occupied by ENDF personnel, but other antigovernment groups, including al-Shabaab, moved into many of the former ENDF sites in the South Central Somalia. Fighting by TFG troops, allied militias, and African Union Mission in Somalia (AMISOM) forces against antigovernment forces, terrorist groups, and extremist elements increased and resulted in widespread human rights abuses, including the killing of thousands of civilians (estimates vary widely), the displacement of more than one million persons, and widespread property damage, particularly in Mogadishu. The larger clans had armed militias at their disposal, and personal quarrels and clan disputes frequently escalated into killings. Targeted assassinations continued. While roadside bombings became less frequent, there was an increase in suicide bombings reported during the year. There were eight suicide bombings that targeted TFG officials and offices and AMISOM installations. Civilian authorities allied with the TFG gained some control over security forces in Mogadishu but did not maintain effective control of the security forces in other areas. Elected civilian authorities in Somaliland and Puntland maintained significantly more control over security forces in their respective regions.

The TFG's respect for human rights improved. It appointed a human rights focal point and participated in international efforts to encourage better human rights practices; however, the poor human rights situation deteriorated further during the year, especially in the areas controlled by al-Shabaab and allied extremist groups. Also contributing to the worsening picture was the absence of effective governance institutions and rule of law, the widespread availability of small arms and other light weapons, and continued conflicts. As a consequence, citizens were unable to change their government through peaceful, democratic means. Human rights abuses included unlawful and politically motivated killings; kidnappings; torture, rape, amputations, and beatings; official impunity; harsh and life-threatening prison conditions; and arbitrary arrest and detention. In part due to the absence of functioning institutions, perpetrators of human rights abuses were rarely punished. Denial of fair trial and limited privacy rights were problems, and there were restrictions on freedoms of speech, press, assembly, association, religion, and movement. Discrimination and violence against women, including rape; female genital mutilation; child abuse; recruitment of child soldiers; trafficking in persons; abuse of and discrimination against clan and religious minorities; restrictions on workers' rights; forced labor, including by children; and child labor were also problems.

According to Mogadishu-based human rights organizations, the TFG showed some improvements in its human rights practices: it was not responsible for politically motivated killings, executions, or disappearances. Allegations against its security forces decreased, and its police and prison personnel were generally responsive on human rights problems. This improvement occurred amid an overall deterioration in the human rights situation of the country, including in Somaliland and Puntland.

¹The United States does not have diplomatic representation in Somalia, and U.S. government personnel were not permitted to travel regularly into any of the territory of the former state of Somalia during the year. This report draws in large part on non-U.S. government sources.

In a July report, the international nongovernmental organization (NGO) Human Rights Watch stated that the “Somaliland administration committed human rights violations and generated a dangerous electoral crisis.”

In March 2008 the UN Independent Expert on the Situation of Human Rights in Somalia (UNIE) noted that despite the overall deteriorated situation, incremental improvements in human rights awareness were taking place in some areas of the country. UNIE’s September 17 report to the UN General Assembly accused extremist groups of fueling violence by dashing opportunities for peace presented by the Djibouti peace process and the withdrawal of ENDF personnel, and by not taking advantage of the opening provided by the TFG’s adoption of Shari’a (Islamic law).

Members of antigovernment groups, extremist groups, and terrorist organizations like al-Shabaab, some of whose members were affiliated with al-Qa’ida, committed an increasing number of egregious human rights violations, including killings of TFG members and civilians; kidnappings and disappearances; attacks on journalists, aid workers, civil society leaders, and human rights activists; restrictions on freedom of movement; and displacement of civilians.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were some reports that the government or its affiliated militia committed arbitrary or unlawful killings, but fewer than during the prior two years.

Fighting between TFG forces and its allied militias against antigovernment groups resulted in at least 1,000 civilian deaths in the south central region, particularly in Mogadishu. Political killings and assassinations also occurred (see section 1.g.).

Politically motivated killings by antigovernment groups, extremist elements, and terrorist organizations resulted in the deaths of approximately 10 senior TFG officials, fewer than in previous years (see section 1.g.).

Prominent peace activists, clan elders, and their family members became targets and were either killed or injured for their roles in attempted peace-building. There were no reports of government involvement in these killings, but the government neither identified nor was able to punish the perpetrators. Reports indicated that al-Shabaab and its affiliated militias were behind many of these killings. On January 1, al-Shabaab killed Abdullahi Abdi Egal, a National Reconciliation Commission member in Baidoa. He is believed to have been targeted for his role as a commissioner and for his association with the TFG. On March 30, gunmen killed Abdurrahman Mohamud Jimale “Shifti” and two others in Mogadishu. On April 15, unknown gunmen killed Abdullahi Isse Abtidoon, a member of Parliament (MP), in Mogadishu. Both Shifti and Abtidoon were actively involved in peace and reconciliation efforts between the newly reconstituted TFG and opposing extremist groups. On August 16, masked armed men killed Omar Ali Alasow “Fiasco,” an aid worker and former army colonel, in Mogadishu. On September 7, assailants killed Ali Ahmed “Irro,” a prominent Mogadishu elder and spokesman for the pro-TFG faction of Hawiye elders. Irro was consistently critical of al-Shabaab and allied extremists for their violent activities. Also on September 7, al-Shabaab militia beheaded Ugas Adan Nur Matan “Madobe,” a traditional elder in the Bakool Region, for allegedly making telephone contact with a TFG official. On several occasions, al-Shabaab leaders issued death threats against anyone working for or suspected of having links with the TFG. On April 20, gunmen pursued and shot at Ahmed Diriye, a prominent clan elder and spokesperson. Diriye escaped the assassination attempt and blamed al-Shabaab for the attack. As in all previous killings of peace activists, the perpetrators had not been arrested by year’s end.

Unlike in previous years, there were no reports that the government summarily executed persons during the year and no reports that excessive force by the TFG resulted in the death of demonstrators.

Use of excessive force by Somaliland government forces resulted in the deaths of demonstrators during the year (see section 2.b.).

There were no reports of government forces deliberately killing street children. Some children were caught in crossfire during fighting between forces.

Throughout the year militants periodically fired mortars at Villa Somalia, the presidential palace in Mogadishu. On February 22, al-Shabaab fired upon peacekeepers, resulting in the death of 11 Burundian soldiers. On July 11, al-Shabaab mortar attacks on Villa Somalia killed three AMISOM peacekeepers. Several other mortar attacks on the president’s residence landed in surrounding neighborhoods, causing civilian deaths, injuries, destruction of property, and displacement. Al-Shabaab instigated clashes with the TFG in Mogadishu—these were most intense

in May and June, killing an estimated 500 persons and displacing another 250,000 from their homes. In the second half of the year, al-Shabaab launched almost daily attacks on TFG-controlled areas, and local human rights organizations held the group responsible for killings, injuries, torture, and abuse of the civilian population. Resultant AMISOM and TFG counterattacks involving street combat and mortar attacks also caused civilian deaths.

On April 27, a mortar attack on the parliament building in Mogadishu killed a police officer and three school children and wounded several other persons. On May 17, mortar attacks on the police academy killed and wounded civilians in the vicinity. On September 11, groups associated with al-Shabaab launched mortar attacks on a disabled veterans home, killing an estimated 11 and wounding 20; al-Shabaab claimed responsibility.

During the year fighting among armed moderate and extremist religious factions, as well as between extremists, caused hundreds of civilian casualties and displacements. In January, for example, clashes between Ahlu Sunna Wal Jama'a (ASWJ), a historically nonpolitical moderate Islamic organization, and al-Shabaab in Galgaduud Region killed an estimated 100 persons and displaced 160,000. On October 1, clashes in Kismayo between al-Shabaab and Hisbul Islam, armed antigovernment groups that had previously been allied against the TFG, killed an estimated 30 persons and wounded 100.

Senior members of the TFG were killed. On March 11, General Ubaid Ali was killed in a roadside explosion in Mogadishu's Shibis District. General Ali served as head of security for two former prime ministers. Two of Ali's security guards and his brother, riding with him, also were killed.

On June 18, al-Shabaab claimed responsibility for a suicide car bomb explosion at a Beledweyne (Hiraan Region) hotel. The explosion, which destroyed the hotel, killed an estimated 40 persons and wounded 100. Among those killed were prominent TFG political and security officials, including Minister of National Security Omar Hashi, clan elders, and community leaders.

On December 3, a suicide bombing of Benadir University's graduation ceremony at Hotel Shamow in Mogadishu killed 22 persons, including three TFG ministers. Minister of Health Qamar Aden Ali, Minister of Education Ahmed Abdullahi Sheikh Mohamed "Wayel," and Minister of Culture and Higher Education Ibrahim Hassan Addow were killed along with graduating medical students, professors, journalists covering the event, and graduates' family members. The explosion also wounded more than 60 persons.

During the year Puntland officials were also killed. On April 26, gunmen killed Yasin Said Hussein, governor of Puntland's Karkaar Region, while he was on a mission to mediate between two warring subclans. On April 29, the Puntland Intelligence Service chief in Mudug Region was killed by a roadside bomb in Gaalkacyo Town. On August 5, unidentified gunmen killed Puntland Minister of Information Warsame Abdi Shirwa when they opened fire on his car in Galkayo. The minister was part of a team preceding the Puntland president's planned trip to address residents on security issues.

Other TFG officials were injured. Minister of the Interior Abdikadir Ali Omar was wounded in a roadside bomb explosion near Bakara market; also his assistant was killed and one of his guards was wounded.

Islamic extremists trying to impose strict social edicts killed several persons.

During the year unknown assailants killed several prominent persons.

During the year unknown assailants killed two journalists and media owners (see section 2.a.).

Attacks on humanitarian workers, NGO employees, and foreign peacekeepers resulted in deaths during the year (see section 5).

During the year hundreds of civilians were killed in inter- or intraclan militia clashes. The killings resulted from clan militias fighting for political power and control of territory and resources, revenge attacks, banditry and other criminal activities, private disputes over property and marriage, and vendettas after such incidents as rapes, family disagreements, killings, and abductions. With the breakdown of law and order, authorities investigated very few of these cases, and there were few reports that any of the cases resulted in formal action by the local justice system.

Tension remained high in Galkayo with intermittent gunfights between clan militias. After a July 20 clash in Galkayo, several prominent persons were killed in retribution attacks.

Between July and September, intraclan conflict in Harar Dhere, Mudug Region, resulted in the deaths of an estimated 20 persons and injuries to numerous others. On August 5, intraclan fighting killed five persons; on September 6, six others were killed in the same area. These deaths followed the collapse of clan elders' conflict

mediation efforts. During the year recurrent intraclan conflicts caused several deaths along the border of Hiraan and Middle Shabelle regions.

On August 12, a land- and water-related dispute between two subclans in Ufweyn and Qandala districts of Puntland's Bari Region resulted in the killing of five persons and wounding of several others. The dispute further escalated, killing an estimated 40 persons and wounding several others during the year. In late September President Farole visited the areas of conflict to bolster conflict mediation efforts by local political and traditional leadership. On October 21, a delegation of Puntland elders and government officials led by President Farole returned to Ufweyn with a set of binding resolutions for all parties to the conflict.

In April five persons were killed in disputes over the El-Berdaale farming land in Gabiley, Somaliland. More than 100 clan elders went to Kalabeyd, used traditional mediation strategies, and brokered a ceasefire. In a related incident on July 11, unidentified militia members stopped travelers along the Borame-Gabiley road; they took 10 hostages and summarily executed four of them. Somaliland authorities did not make any arrests in connection with the killings. Clan elders sought to capture and hand over the suspects to police.

No action was taken against members of the security forces or militias who committed killings in 2008 or 2007, and there was no progress in the investigations of killings reported in previous years.

Land mines throughout the country caused numerous civilian deaths (see section 1.g.).

b. Disappearance.—There were no reports of politically motivated disappearances, although cases could easily be concealed due to continuing chaos in the country. Abduction as a tactic in clan disputes or to attain political ends was less frequent. The Somali NGO Safety Preparedness and Support Program reported a decreased incidence of kidnapping, in part because of fewer international staff in the country.

During the year there was a decrease in kidnappings by militia groups and armed assailants who demanded ransom for hostages. The majority of reported kidnappings were in the southern regions, especially in areas surrounding Mogadishu, where ransoms allegedly funded purchases of weapons and ammunition. Seven aid workers and NGO workers were kidnapped during the year (see section 5).

Maritime piracy and the kidnapping of crews declined in the first half of the year in the Gulf of Aden as a result of international antipiracy efforts and seasonal winds that reduced all offshore maritime traffic; however, piracy increased in the second half of the year and continued to complicate humanitarian efforts to provide essential commodities to thousands of IDPs (see section 1.g.).

During the year there were no investigations or actions taken against the perpetrators of any kidnappings. Several persons who were abducted in 2008 were released. On January 15, kidnappers released Abdifatah Mohamed Elmi, a local journalist kidnapped with two foreign journalists in August 2008 along the Mogadishu-Afgoye road; the two foreign journalists were freed on November 25. On August 12, captors freed six international aid workers kidnapped in November 2008 in Dhusamarebb, Galgaduud Region. On October 3, kidnappers released three international aid workers kidnapped on July 18 from the Kenyan border town of Mandera and held in undisclosed locations in Somalia.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Transitional Federal Charter (TFC) prohibits torture. The Puntland Charter prohibits torture “unless sentenced by Islamic Shari’a courts in accordance with Islamic law.” Unlike in previous years, there were no reports of the use of torture by the TFG, Puntland, or Somaliland administrations. Various clan militias and al-Shabaab continued to torture their rivals and civilians. Observers believed that many incidents of torture were not reported.

Unlike in previous years, there were no reports of persons assembled at food distribution centers being killed or injured.

Unlike in previous years, there were no reports of police raping women; however, there continued to be reports of militias using rape to punish and intimidate rivals. Rape was commonly perpetrated in interclan conflicts.

There were no reports of action taken against TFG and Somaliland government forces, warlord supporters, or members of militias responsible for torturing, beating, raping, or otherwise abusing persons in 2008 or 2007. Unlike in previous years, Puntland police took action against a police officer for abuse. On August 26, in Garsor District of Mudug Region, local authorities arrested a police officer for using excessive force that resulted in the death of a businessman who refused to pay his license tax. Similarly, on September 27, police in Bossasso arrested a police officer who was implicated in the death of a civilian.

Prison and Detention Center Conditions.—Prison conditions remained harsh and life threatening in all regions. Overcrowding, poor sanitary conditions, lack of access to health care, and inadequate food and water persisted in prisons throughout the country. Tuberculosis, HIV/AIDS, and pneumonia were widespread. Abuse by guards was common. Detainees' families and clans generally were expected to pay the costs of detention. In many areas prisoners depended on food received from family members or from relief agencies.

According to Mogadishu-based human rights organizations, TFG prison conditions improved and wardens were generally responsive on human rights problems. There were far fewer prisoners and detainees held in TFG prisons than in previous years. There were an estimated 400 prisoners held at Mogadishu central prison, the only TFG-operated prison during the year. The reduction in the number of TFG prisoners was largely due to a reconciliation policy that did not emphasize arrests and a lack of capacity to detain those who sought to undermine or attack the government. United Nations Development Program (UNDP) Somalia supported local partners to institute judicial and rule of law reforms. Through such initiatives as the UNDP-supported Police Advisory Committee, authorities released more than 5,000 prisoners in the previous two years.

Unlike in previous years, there were no reports of TFG-allied militias operating detention centers. Antigovernment groups, extremist elements, and clan leaders reportedly continued to operate detention centers in which conditions were harsh and guards frequently abused detainees. Al-Shabaab and affiliated extremist armed groups operated dilapidated detention centers in areas under their control in the south and central regions. Thousands of prisoners were incarcerated in inhumane conditions for relatively minor offenses such as smoking, listening to music, and not wearing the hijab. For example, on July 19, al-Shabaab in Baidoa jailed 20 women for disobeying the decree requiring them to wear the hijab. In October al-Shabaab flogged women in Mogadishu for not wearing the hijab, and on October 25 arrested 20 women and detained them in Bakara market. The women were released after three days, some after paying a fine of 600,000 Somali shillings (\$15). Unlike in previous years, there were no reports by human rights organizations and civil society leaders in Mogadishu of the existence of makeshift detention centers in Mogadishu where prisoners were held during and after episodes of heavy fighting.

In prisons and detention centers, juveniles frequently were held with adults. The incarceration of juveniles at the request of families who wanted their children disciplined continued to be a major problem. Female prisoners were separated from males. Particularly in the south central region, pretrial detainees were often not separated from convicted prisoners.

The Puntland and Somaliland administrations permitted prison visits by independent monitors. The September 17 UNIE report described conditions at Puntland's Garowe central prison as "terribly bad." According to UNIE, this was due to lack of capacity to hold large numbers of prisoners rather than intentional abuse. A project of Somaliland and the UNDP resulted in the formation of an independent prisoner monitoring committee. The UNDP also extensively trained the prison custodial corps on a variety of human rights problems. There were no visits by the International Committee of the Red Cross to prisons in Somaliland or in the rest of the country during the year; however, a prisons conditions management committee organized by the UNDP and composed of medical doctors, government officials, and civil society representatives continued to visit prisons in Somaliland. During the year the UNDP managed a program to improve Somaliland prisons by building new facilities and assisting in training wardens and judicial officials.

d. Arbitrary Arrest or Detention.—In the absence of enforced constitutional or other legal protections, the TFG, militias allied with it, and various clan militias across the country continued to engage in arbitrary arrest and detention, and there was no system of due process. Although precise figures were unobtainable, local human rights organizations and international organizations reported that, although there were fewer arrests than the previous year, the TFG continued to arrest and detain persons, most of whom were quickly released; however, there were allegations that detainees were subjected to beatings, other mistreatment, and torture. Reports by NGOs and other international organizations indicated that mistreatment continued during the year.

Al-Shabaab militias across the south central region arbitrarily arrested persons and detained them without charge.

Role of the Police and Security Apparatus.—The police were generally ineffective, underpaid, and corrupt. With the possible exception of approximately 2,000 UN-trained police known as the Somali Police Unit, members of the TFG titular police forces in Mogadishu often directly participated in politically based conflict and owed

their positions largely to clan and familial links to government authorities. There were fewer allegations that TFG security officials were responsible for extrajudicial killings, indiscriminate firing on civilians, arbitrary arrest and detention, extortion, looting, and harassment than in the previous two years.

In Somaliland an estimated 60 percent of the budget was allocated to maintaining a militia and police force composed of former soldiers. Abuses by police and militia members were rarely investigated, and impunity remained a problem. Police generally failed to prevent or respond to societal violence.

The Puntland police force was not paid on a regular basis. Puntland's armed militia was not aligned with the TFG armed forces, although the TFG prime minister and the Puntland president began negotiations for collaboration in the security sector and over the formation of a coordinated Somali National Army.

Arrest and Detention.—Judicial systems were not well established, were not based upon codified law, did not function, or simply did not exist in most areas of the country. The country's previously codified law requires warrants based on sufficient evidence issued by authorized officials for the apprehension of suspects; prompt notification of charges and judicial determinations; prompt access to lawyers and family members; and other legal protections for the detained; however, adherence to these procedural safeguards was rare. There was no functioning bail system or the equivalent.

Arbitrary arrest was a problem countrywide.

During the year authorities in Somaliland and Puntland arbitrarily arrested journalists during the year (see section 2.a.); however, unlike in previous years, TFG forces did not arrest journalists, NGO workers, or UN employees (see section 4.).

Unlike in previous years, there were no reports of TFG-allied militia arresting persons at random and demanding "bail" from their family members as a condition for their release.

There were no reports of TFG police detaining persons without charge.

There were reports of politically motivated arrests in Somaliland. On April 4, Somaliland police arrested two Hargeisa mosque imams, Sheikh Ahmed Dayib Aden and Sheikh Abdullahi Mohamud. Police arrested Aden after morning prayers for comments made in Friday sermons about the upcoming presidential election. Somaliland authorities did not offer specific reasons for the arrests, and on April 6, both clerics were released without charge. On April 14, Somaliland police arrested clan elder Boqor Saleban Hassan for attending a rally organized by an opposition group on the previous day. On August 20, the opposition party UCID and KULMIYE Borame District party chairmen were arrested for allegedly fomenting insecurity by organizing unauthorized demonstrations. On August 21, the two leaders were released without charge. There were reports that arrested persons were sometimes held for extended periods while awaiting trial. Militias and factions held pretrial detainees without charge and for lengthy periods.

Authorities in the country arrested or detained numerous persons accused of terrorism and support for al-Shabaab.

Al-Shabaab and other extremist elements arrested and detained persons. For example, on March 26, al-Shabaab militia in Baidoa violently dispersed local residents during a peaceful demonstration against al-Shabaab's March 24 orders banning trade in and consumption of khat. Al-Shabaab forces arrested approximately 50 persons, mostly women, during and after the demonstrations.

On April 9, one person was killed and three others wounded after al-Shabaab opened fire on khat traders in Dinsor town, Bakol Region. On May 18, al-Shabaab Merka and Bardhere administrations banned youth from playing soccer. On May 19, following the ban, armed al-Shabaab militia arrested several young persons playing soccer at the main field in Merka. The youth were released after 12 hours with warnings not to play games again. This ban followed an earlier edict banning movies and watching soccer games on television. On June 13, the al-Shabaab administration in Kismayo outlawed watching movies on DVDs, television, and even storing pictures on cell phones. Al-Shabaab issued a stern warning that it would raid the homes of persons suspected of violating the ban. On August 16, al-Shabaab militias arrested and flogged a young man for allegedly storing "obscene" pictures on his cell phone.

On July 19, the Hisbul Islam administration in Afgoye, Lower Shabelle, arrested nine prominent traditional elders. The elders' arrest was linked to their involvement in holding "Istun," a traditional ceremony popular with the local community. Earlier the Hisbul Islam administration banned the tradition and warned that anyone contravening the ban would be punished. The elders were released on July 20, after being held overnight in prisons in Afgoye.

e. Denial of Fair Public Trial.—The TFC provides for an independent judiciary, but there was no functioning judicial system for the TFG to administer. The TFC outlines a five-year transitional process that includes the drafting of a new constitution to replace the 1960 constitution that was in force prior to the 1991 collapse of the Barre regime; however, for many issues not addressed in the Charter, the former constitution still applies in principle.

The TFC provides for a high commission of justice, a Supreme Court, a court of appeal, and courts of first instance; however, in practice no such courts existed. Some regions established local courts that depended on the predominant local clan and associated factions for their authority. The judiciary in most areas relied on some combination of elements from traditional and customary law, Shari'a, and the penal code of the pre-1991 government. On May 13, President Sharif ratified a parliamentary bill establishing Shari'a nationwide; however, by year's end there were no official institutions charged with the administration of Shari'a. On August 5, President Sharif established a military court for members of the TFG armed forces, but this court did not operate in practice. In areas that al-Shabaab controlled, Shari'a was applied; however, there were no trained Shari'a judges to preside over cases, resulting in uneven and at times draconian sentencing. For example, on January 28, in Kismayo, a man's hand was amputated for stealing three sacks of fishing nets. On March 9, four male youths ages 15-18 were sentenced to death for raping an 18-year-old girl. Their sentences were commuted to a public flogging of 100 lashes each, since none of the boys had been previously married.

The Somaliland constitution provides for an independent judiciary; however, the judiciary was not independent in practice. The Somaliland constitution is based on democratic principles, but the region continued to use laws that predate the constitution, some of which contradict democratic principles. Functional courts exist, although there was a serious lack of trained judges and a shortage of legal documentation to build judicial precedence. Untrained police and other unqualified persons reportedly served as judges. International NGOs reported that local officials often interfered in legal matters and that the Public Order Law in Somaliland was often used to detain and incarcerate persons without trial.

The Puntland Charter provides for an independent judiciary; however, the judiciary was not independent in practice. The Charter also provides for a Supreme Court, courts of appeal, and courts of first instance. These courts functioned, although they lacked the capacity to provide equal protection under the law.

Traditional clan elders mediated in and resolved intra- and interclan conflicts throughout the country. During the year, in Somaliland traditional elders intervened during political disputes between the government and opposition political parties. Clans and subclans frequently used traditional justice, which was swift. Traditional judgments sometimes held entire opposing clans or subclans responsible for alleged violations by individuals.

Trial Procedures.—Without a functioning judicial system, there were no standard trial procedures in the southern and central regions. The TFC provides for the right of every person to legal proceedings in a competent court. The TFC states every person enjoys the presumption of innocence, the right to be present and consult with an attorney at any time, and adequate time and facilities to prepare a defense. The TFC provides a guarantee of free legal services for individuals who cannot afford them. While not explicitly mentioned in the TFC, there was a presumption of the right to a public trial and jury, rights pertaining to witnesses and evidence, and the right of appeal. Most of these rights were not respected in practice and did not exist in those areas that applied traditional and customary practices or Shari'a.

With the support of UNDP programs addressing judicial reform, Somaliland registered some improvement, except in cases of a political nature. Defendants generally enjoy a presumption of innocence, the right to a public trial, and the right to be present and consult with an attorney in all stages of criminal proceedings. Defendants can question witnesses and present witnesses and evidence on their behalf and have the right of appeal. Somaliland provides free legal representation for defendants who face serious criminal charges but are unable to hire the services of private attorney. Authorities in this region did not recognize the TFC and continued to apply the Somaliland constitution and pre-1991 laws.

In Puntland, as in most other areas, clan elders resolved the majority of cases using traditional methods; those with no clan representation in Puntland, however, were subject to the administration's judicial system. In this system, as outlined in Puntland's constitution, defendants enjoy a presumption of innocence, the right to a public trial, and the right to be present and consult with an attorney at all stages of criminal proceedings. Defendants can question witnesses and present witnesses and evidence on their behalf and have the right of appeal. As in the other regions,

the constitution states that free legal representation is provided for defendants who cannot afford an attorney; in practice these rights were not respected.

Political Prisoners and Detainees.—There were no official reports of political prisoners or detainees, although some arrests and detentions, especially in Somaliland, appeared to be politically motivated. On September 12 and 13, there were reports that Somaliland authorities arrested and detained more than 100 persons, including several opposition leaders, after four persons were killed during the September 12 public demonstration in Hargeisa.

Civil Judicial Procedures and Remedies.—The inability of the judiciary to handle civil cases involving such matters as defaulted loans or contract disputes encouraged clans to take matters into their own hands and led to increased interclan conflict. There were no lawsuits seeking damages for, or cessation of, a human rights violation. With the breakdown of the rule of law and the lack of a coherent legal system or effective government, individuals were not afforded adequate protection or recourse.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The TFG provides for the sanctity of private property and privacy; however, looting, land seizure, and forced entry into homes continued in Mogadishu and elsewhere with impunity. The Puntland Charter and the Somaliland constitution recognize the right to private property; the authorities did not generally respect this right in practice.

On July 7, TFG-allied militia looted and forcefully extorted money from small-scale traders in Mogadishu's Wadajir District.

During the year there were fewer cases of TFG forces extorting money from taxi, bus, and truck drivers transporting goods; however, on June 8, TFG soldiers at a checkpoint near Afgoye killed a driver after he did not pay the checkpoint fee they demanded.

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—Killings.—Fighting during the year between TFG and allied forces against al-Shabaab and Hisbul Islam in south central regions resulted in the deaths of at least 1,000 persons, according to the Somalia-based Elman Human Rights Organization. An estimated 3,500 others were injured, and the UN High Commissioner for Refugees (UNHCR) reported that more than one million civilians were displaced, some for the first time and others after several earlier occurrences, as a result of conflict during the year. All parties to the conflict employed indiscriminate lethal tactics. Antigovernment and extremist groups, particularly al-Shabaab, were responsible for launching mortar attacks from hidden sites within civilian populated areas and using civilians as human shields. In addition, such groups conducted suicide bombings, used land mines and remote controlled roadside bombs, and conducted targeted killings of journalists, aid workers, and civil society leaders. Al-Shabaab conducted almost daily attacks against the TFG and AMISOM, resulting in significant civilian casualties. TFG and AMISOM forces responded to these attacks, which sometimes resulted in shelling of civilian populated areas. The international NGO Human Rights Watch accused all parties to the conflict of indiscriminate attacks, deployment of forces in densely populated areas, and a failure to take steps to minimize civilian harm. As a result homes, hospitals, schools, mosques, and other infrastructure were destroyed in Mogadishu. Since the collapse of the government in 1991, tens of thousands of persons, mostly noncombatants, have died in interclan and intraclan fighting. No action was generally taken against those responsible for the violence.

For example, on January 12, armed opposition groups launched an attack against TFG troops in Mogadishu. As a result, 12 civilians were killed and more than 30 wounded. Similarly on January 14, al-Shabaab launched an attack on the presidential palace resulting in 21 civilians killed and 30 injured.

On January 26, four civilians were killed and 10 wounded in an exchange of gunfire in Baidoa as al-Shabaab forces tried to take control of the town.

On January 16, in Waberi District, Banadir Region, TFG forces attacked civilians, resulting in nine deaths. On June 17, in Mogadishu, armed opposition groups and the TFG exchanged mortar rounds, resulting in the death of 15 and injuries to 32 civilians. On October 22, mortar exchanges between TFG forces, supported by AMISOM, and al-Shabaab in Mogadishu's Howlwadag and Hodan districts killed an estimated 30 civilians and wounded 70. AMISOM and TFG forces were responding to al-Shabaab mortar attacks on the airport during the departure of President Sharif and his delegation.

Al-Shabaab and other extremist groups summarily executed an unknown number of persons, whom they accused of spying for the "enemy"—the TFG and AMISOM—in Mogadishu, Bay, Bakol, the Lower and Middle Jubas, the Lower and Middle

Shabelles, and the Galgadud and Hiiraan regions. On January 16, al-Shabaab publicly executed by firing squad Abdirahaman Haji Mohamed "Waldire" after an al-Shabaab court convicted him of espionage and apostasy. Ahmed was a prominent Juba region politician and militia leader. He was arrested on January 5. On September 28, al-Shabaab publicly executed two young men in Mogadishu after an al-Shabaab court found them guilty of espionage. Similarly, extremist armed groups in the Jubas, Bay, and Bakol regions arrested and beheaded several persons they accused of spying. On March 19, al-Shabaab militia beheaded two ASWJ clerics in Balad, Middle Shabelle.

In July al-Shabaab from Bay and Bakol regions beheaded an elderly disabled man after removing his eyes. Al-Shabaab reportedly fitted the man's spectacles on his dismembered head and displayed it in the open. On December 14, Hisbul Islam militia in Afgoe, Lower Shabelle, executed a man accused of committing adultery. The man was buried waist-deep and pelted with stones until he died. Militia leaders rounded up members of the community to witness the punishment.

Roadside bombings, suicide attacks, and armed raids targeting TFG officials and sympathizers as well as civil society groups continued throughout the year. Antigovernment and extremist groups were responsible for numerous killings of government officials and police. Politically motivated killings by al-Shabaab and its affiliates resulted in the deaths of several TFG officials and members of the Banadir regional administration, including district commissioners and their deputies, and security and court officials.

For example, on April 16, al-Shabaab militia reportedly killed Sharif Mohamud Hassan "Kariye," a TFG-allied militia commander, in Hodan District when they opened fire on his vehicle, also killing two other persons accompanying him. On April 23, Abdi Mohamud "Dhabaney," Hodan district commissioner, escaped unhurt after a landmine attack that blew up his car and wounded three others. On June 17, militia associated with al-Shabaab killed Colonel Ali Said, Banadir region police commander, during fighting between TFG troops and al-Shabaab in Mogadishu. On September 26, Mohamed Nur, TFG deputy police commissioner, died from injuries sustained during a September 17 suicide attack against AMISOM headquarters in Mogadishu. None of the assailants were identified by year's end. Al-Shabaab claimed responsibility for several attacks against the TFG and its supporters during the year.

During attacks on TFG troop positions in Mogadishu and elsewhere, al-Shabaab summarily executed security officers. For example, on June 16, al-Shabaab extremist militia elements attacked TFG troops positioned in Galgalato, a village on the outskirts of eastern Mogadishu, and summarily executed by decapitation nine TFG soldiers.

There were no reported cases of TFG security forces killing civilians whom they suspected of planning attacks or giving information to antigovernment forces, as was common in previous years; however, several civilians were killed or injured during clashes between members of TFG's security forces and affiliated militia in parts of Mogadishu. For example, on July 30, two civilians were killed and five wounded when they were caught in a cross fire during clashes among TFG police officers at Zobe in the KM5 area of Mogadishu. On August 3, six persons, including two TFG soldiers, were killed when TFG-affiliated security forces exchanged fire at KM4 in Mogadishu. On August 12, several civilians were killed during clashes between two TFG armed militia groups affiliated with the police and regional security. These clashes reportedly occurred when security forces intervened to prevent their colleagues from engaging in criminal activities such as looting and extortion.

Unlike in previous years, during the year security forces did not kill persons waiting for food aid.

No action was taken against security officials responsible for civilian deaths during the year.

During the year attacks on Ugandan and Burundian troops participating in AMISOM increased. Al-Shabaab killed nearly 120 persons and injured 200, mostly civilians, in eight suicide car bomb attacks against TFG and AMISOM targets during the year.

For example, on January 24, a suicide car bomb explosion targeted an AMISOM convoy near its Mogadishu base at Maka-al-Mukarama road and reportedly killed at least 16 persons and wounded approximately 40. Among the casualties were 13 passengers in a bus near the explosion site. An ensuing gunfight between AMISOM and armed gunmen reportedly caused most of the injuries. On February 22, another suicide car bomb attack inside the AMISOM base killed 11 and wounded 19 peacekeepers. On April 24, a suicide car explosion killed 10, including six TFG police officers outside the police academy in Mogadishu. Police guards at the entrance deto-

nated a suspicious car before it could enter the police training school compound, averting more casualties.

On September 17, al-Shabaab suicide bombers killed 21 persons, including a dozen AMISOM peacekeepers, and wounded several others. Five suicide bombers in two cars laden with explosives drove past security guards at AMISOM headquarters and detonated inside the compound. The December 3 suicide bombing at the Benadir University graduation was the deadliest suicide attack. It killed 22 civilians, including three TFG ministers, and wounded as many as 50 other civilians.

Land mines throughout the country resulted in human and livestock casualties, denial of access to grazing and arable land, and road closures. The UN Children's Fund (UNICEF) reported a continued proliferation of mines and ordnance during the year, resulting in numerous deaths and injuries from land mines. Antipersonnel and antivehicle land mines, most of them remotely controlled, were frequently deployed by antigovernment groups against TFG forces, its allied militia, and civilians.

For example, on January 2, in Hodan District, Banadir Region, a land mine exploded, killing seven civilians.

On January 9, a land mine killed four civilians in Mogadishu. Ahmed Abdullahi Magan, the TFG's Garbaharrey district commissioner, was killed in a landmine explosion along Bulla Hawa-Garbaharrey road, as were three other officials in the same car. On March 15, Ahmed Hassan "Da'I," Wadajir district commissioner, was wounded by a targeted remote-controlled land mine near Mogadishu's international airport. The explosion killed Hassan's driver and wounded two of his security guards. On June 1, a roadside explosion against a TFG police car killed six police officers and wounded three civilian passersby. On June 7, a roadside explosion blew up a civilian car in KM4, killing three occupants and wounding three after missing its target, a TFG police car.

Attacks on and harassment of humanitarian, religious, and NGO workers resulted in numerous deaths.

Numerous children were killed while playing with unexploded ordnance (UXO). For example, on February 24, a UXO killed two children and wounded three from the same family in Biya Adde, Middle Shabelle. On July 8, a UXO killed two children in Ganjaroon village, Lower Juba. On June 14, a land mine killed at least one child and wounded five in Dharkenley District, Mogadishu.

Police officers and local administrators also were killed by land mines. For example, on June 1, a remote-controlled roadside bomb struck a TFG police car and killed six officers on board and wounded three civilian passersby. On June 30, al-Shabaab claimed responsibility for a landmine explosion targeting a TFG vehicle in Waberi District in which five TFG troops on board were killed. On November 1, a remote-controlled roadside bomb killed Osman Yusuf Nur, Somaliland's Sool Region military commander. The explosion wounded two military personnel and two civilians. Somaliland security arrested five persons who remained in custody at year's end.

Physical Abuse, Punishment, and Torture.—On June 25, al-Shabaab insurgents carried out double amputations on four young men in Mogadishu, cutting off their right hands and left feet as punishment for theft. A hurriedly convened al-Shabaab Shari'a court found all four men guilty and promptly carried out the punishment without allowing any form of legal representation or appeal. The four victims were allegedly al-Shabaab deserters, and the robbery charge was reportedly part of a ploy to use them as an example. Al-Shabaab carried out numerous other amputations as punishment for theft in Kismayo, Merka, Wanlaweyn, and Qansaxdhere.

Al-Shabaab carried out these amputations and other violent physical punishments in front of community members whom they forced to attend.

Extremist groups devised a new form of torture of their victims involving crude weapons to cause physical and psychological harm. For example, al-Shabaab militia reportedly burned plastic that they molded into sharp tools, the tips of which were used as torture instruments. The tool was pierced into the skin repeatedly to elicit information. On several occasions during the year, al-Shabaab used this method to torture TFG members and individuals suspected to be sympathetic to the government.

On August 10, the al-Shabaab administration in Merka began removing residents' gold and silver teeth, alleging that they are a sign of vanity and against Islam. There were numerous reports of al-Shabaab identifying persons in the street and using unsterile tools to remove the teeth.

Child Soldiers.—The recruitment and use of children in militias and other fighting forces was a longstanding practice in the country and continued during the year. Without established birth registration systems, it is often difficult to determine the exact age of persons, including recruits to armed groups. Children continued to be recruited into militias by the TFG and its allied forces. An October UN report, The

Recruitment and Use of Children by Armed Forces or Armed Groups in the Somali Conflict, indicated that while all parties recruited children, the TFG was not systematic in its practice. The TFG reportedly targeted older children between the ages of 14 and 18, while extremist opposition groups recruited younger children into their militias. During the year the TFG improved its recruitment practices and formal troop training to stop child soldier recruitment. New forces, trained in Uganda and Djibouti, were thoroughly vetted, and underage soldiers were purged from the units that were formed once the soldiers returned to the country.

Children were recruited, as well as forcibly conscripted, more often by clan militias and antigovernment groups. The July report of the UN Security Council Working Group on Children and Armed Conflict cited the TFG, Ahlu Sunna wal Jama'a, al-Shabaab, Hisbul Islam, clans, and the Puntland regional administration as having continued recruitment of children into their militias. For example, on July 30, it was reported that al-Shabaab near Baidoa was recruiting children as young as eight years old to train in Labatan Jirow and Daynuunay, former TFG bases. UNICEF monitors identified children between the ages of 13 and 17 who were recruited and used as child soldiers. Because of the risk in intervening directly with militia groups, UNICEF protection partners engaged in low-profile condemnation of child recruitment while undertaking public education of youth to empower them to decline offers by any of the armed groups. In some administrations in the country, like that of Jowhar, authorities committed to demobilize child soldiers with UNICEF's assistance; however, no progress was made.

The TFG pledged to address child recruitment when ministers signed the Paris Commitments in February 2007; however, children were enlisted into TFG forces. During the year all parties to the conflict continued to recruit child soldiers. UNICEF continued its public outreach program with radio broadcasts to highlight the problem of child soldiers.

Al-Shabaab conscripted children into armed conflict and military operations in addition to using them to plant roadside bombs and other explosive devices. According to the UN, al-Shabaab recruited children as young as eight from schools and madrassas and trained them to plant bombs and carry out assassinations for financial reward.

On May 30, TFG police arrested 11 minors who had been kidnapped in the Lower Shabelle Region and forced by al-Shabaab into its militia fighting force. In Kismayo, Baidoa, and Merka, al-Shabaab obligated boys 15 years of age and older to fight as "mujahadeen" or face death. Al-Shabaab killed an estimated 16 teenagers after they refused recruitment as al-Shabaab fighters.

The Somaliland constitution contains no minimum age for recruitment into the armed forces, but there were no reports of minors in its forces; however, an inadequate system of birth registration made it difficult to establish the exact age of recruits.

Other Conflict Related Abuses—Security problems complicated the work of local and international organizations, especially in the south. During the year attacks on NGOs, looting, and piracy disrupted aid flights and food distribution. As a result of killings, kidnappings, threats, and harassment, some organizations evacuated their staffs or halted relief food distribution and other aid-related activities.

During the year piracy off the coast continued; the International Maritime Bureau identified the country's territorial waters as the most dangerous in the world. Pirates conducted 47 successful hijackings and 167 unsuccessful attacks on vessels off the Somali coast, an increase over the previous year despite increased international attention. Fewer incidents occurred in the Gulf of Aden, because of increased patrols, but there were more attacks further offshore. Most of the ships continued to be brought into the waters off the coast of Puntland and held near the coastal town of Eyl. Fueled by lucrative ransoms, Eyl developed a burgeoning industry to support the pirates and their hostages. Following ransom payments that in some cases reached several millions of dollars, the hijacked vessels were released. In each instance crews were held hostage until ransom was paid.

During the year Puntland security forces made some progress against pirates operating along its coast, raided some hideouts, arrested several suspected pirates, and sentenced some to long jail terms. Clan elders and religious groups began sensitization efforts in Puntland's coastal towns to demobilize pirates and discourage youths from becoming pirates. Through these efforts an estimated 100 pirates renounced piracy. Despite the Puntland government's efforts against pirates, prominent persons linked with piracy circulated freely and lived ostentatiously in Puntland cities. At year's end 12 vessels and 263 crew members remained in the custody of Somali pirates.

The TFG continued to improve its treatment of humanitarian agency personnel and appointed a minister of humanitarian and emergency assistance to better liaise

with UN agencies and NGOs. While the relationship improved, the TFG was unable to prevent attacks against UN and NGO personnel. Attacks on aid workers were fewer than the previous year, in large part because many NGOs and aid organizations had withdrawn their staff from the country. According to a July UN Office for the Coordination of Humanitarian Affairs (UNOCHA) report, access difficulties resulted in instances of humanitarian organizations withdrawing, temporary suspensions of programs in certain areas, or delays in the delivery of humanitarian assistance; however, the report stated humanitarian access was generally good in Puntland and Somaliland. UNOCHA reported a general reduction of violence against aid workers during the year, mainly because there were so few workers in the country. UNOCHA noted a marked shift from attacks on humanitarian personnel to raids by al-Shabaab on UN and NGO compounds, offices, and warehouses, in which they looted humanitarian supplies, food, equipment, vehicles, and other assets. The deteriorating security situation and continued targeting of national and international relief workers presented significant challenges to humanitarian operations in the country. During the year 10 aid workers were killed and 7 kidnapped and released. At year's end 10 persons who were kidnapped in 2008 remained captive. Relief agencies continued to operate with significantly reduced or no international staff. Aid agencies increasingly relied on national staff, which was equally under threat, and partnerships with local implementing organizations to deliver relief assistance to vulnerable beneficiaries.

On January 6, three masked gunmen shot and killed Ibrahim Hussein Duale, an employee of the World Food Program. At the time of his death Hussein was monitoring a school feeding program in Yubsan village, Garbahare. On March 19, the al-Shabaab administration in Burdubo arrested one of the gunmen, and in a five-day hearing an al-Shabaab Islamic court tried and convicted him after he pled guilty to Hussein's murder. The convicted killer paid Hussein's family 100 camels to avoid being executed.

On March 16, gunmen abducted four UN staff on their way to an airstrip in Waajid, Bakol Region. The four were released on March 17 after clan elders and local administrators intervened on their behalf.

On April 19, unknown gunmen killed Omar Sharif, a local aid worker in Merka, as he left a mosque after evening prayers.

Also on April 19, unknown armed men abducted two international aid workers—a Belgian doctor and Dutch nurse—working with international NGO Medecins Sans Frontieres (MSF) near Rabdhure, Bay Region. They were released on April 28 through the efforts of local elders. In June the MSF closed its programs in Bakol Region, citing security reasons.

On May 17, al-Shabaab raided the UNICEF compound in Jowhar, stealing and destroying tons of essential nutritional and medical supplies and cold chain equipment—including immunizations for infants, children, and expectant and lactating mothers. On July 20, al-Shabaab militiamen in Bay Region raided the UN agency compound in Baidoa, stole several vehicles, many computers, and expelled three UN agencies. Earlier in the year, al-Shabaab shut down the operations of two international aid organizations in regions under its control.

In early August armed militia groups affiliated with al-Shabaab attacked and occupied at least five NGO compounds in Jilib and Jamaame districts in Middle and Lower Juba regions. There were no aid workers injured in the attacks, but militia looted computers, vehicles, and other equipment, causing several NGOs to suspend humanitarian operations.

On August 17, several gunmen attacked a UN World Food Program (WFP) compound in Wajid, Bakol Region. Guards at the compound fought off the attackers, killing three.

There were some developments in kidnapping cases from 2008. On August 11, kidnappers released four Action Contre la Faim staff, including two pilots, kidnapped from Dusamareb airstrip in November 2008.

In October 2008 simultaneous explosions in Hargeisa targeting the UNDP, the Somaliland Elections Commission, and the Ethiopian embassy, as well as Puntland administration offices in Bossasso, killed 20 persons and injured 37. On May 28, the Hargeisa regional court arraigned 14 suspects in the attack.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The TFC and the Somaliland constitution provide for freedom of speech and press; however, there were instances of violence including murder, harassment, arrest, and detention of journalists in all regions of the country, including Puntland and Somaliland. The Puntland Charter provides for press freedom “as long as journalists respect the law”; however, this right was not

respected in practice. Journalists engaged in rigorous self-censorship to avoid reprisals.

The print media consisted largely of short, photocopied dailies published in the larger cities and often affiliated with one or another of the factions. Several of these dailies were nominally independent and published criticism of political leaders and other prominent persons.

In Somaliland there were seven independent daily newspapers: *Geeska Africa*, *Ogaal*, *Jamhuriya*, *Haatuf*, *Waahen*, *Sahansahan*, and *Maalmah'a*). There was also one government daily—*Maandeeq*—and two English-language weekly newspapers—*Somaliland Times* and *The Republican*. There were three independent television stations: *Horn Cable TV*, *Horn Cable*, and *Somaliland Space Channel*, and one government-owned station, *Somaliland National TV*. Although the Somaliland constitution permits independent media, the Somaliland government has consistently prohibited the establishment of independent FM stations. The only FM station in Somaliland was the government-owned *Radio Hargeisa*. The independent media suffered increased harassment from the Somaliland government, especially in the period preceding the presidential elections that had been scheduled for September 27.

Most citizens obtained news from foreign radio broadcasts, primarily the BBC's *Somali Service* and the *Voice of America's Somali Service* that transmitted daily Somali-language programs. There were reportedly eight FM radio stations and one short-wave station operating in Mogadishu. A radio station funded by local businessmen operated in the south, as did several other small FM stations in various towns in the central and southern parts of the country. There were at least six independent radio stations in Puntland. Conditions in the country precluded a full accounting of all media; there were numerous small, relatively unknown local FM radio stations throughout the country. On March 28, in Kismayo, al-Shabaab opened an FM radio station.

The relationship between journalists and the TFG improved, and unlike in the previous year, journalists did not receive direct threats from the TFG; however, opposition elements, especially al-Shabaab and other extremists, continued to harass journalists, and the overall climate for freedom of speech and press deteriorated. Journalists reported that al-Shabaab threatened to kill them if they did not report on antigovernment attacks conducted by al-Shabaab. Reporters also remained under threat if they published criticism of the government. The Kismayo al-Shabaab administration continued to enforce rules for journalists, including a requirement to refrain from reporting news that undermined Islamic law.

Journalists and media organizations in all regions reported harassment, including killings, kidnappings, detention without charge, and assaults on persons and property. Most experienced field reporters and senior editors had fled the country due to direct threats from antigovernment groups. During the year nine journalists were killed in targeted or collateral incidents.

There were two targeted killings of journalists during the year, compared to one such killing in 2008. On February 4, *HornAfrik* Mogadishu director Said Tahil Ahmed was killed while walking with nine other media leaders to a meeting with al-Shabaab representatives. On June 7, *Shabelle* director Muktar Mohamed Hirabe was killed in Bakara Market. Al-Shabaab reportedly instigated both of these killings.

Seven journalists were killed during the year as a result of cross fire, stray bullets, and proximity to the December 3 suicide bombing in Mogadishu in which three journalists were killed. There were no arrests in connection with any killings or attempted killings of journalists during the year.

Numerous journalists were arrested and detained during the year, but unlike in previous years, there were no reports that the TFG ordered such arrests. For example, on January 23, Muhammad Hasan Haji Abukar, a *Holy Koran Radio* reporter, was reportedly arrested by al-Shabaab authorities in Baidoa and tortured; they also confiscated his equipment. On April 18, al-Shabaab arrested Mohiddin Hassan Mohamed of *Shabelle* in Baidoa; he was released a day later. On August 22, the al-Shabaab administration of Gedo Region ordered *Radio Markale* to fire two journalists and submit to edicts issued that day.

Journalist arrests and detentions increased in Somaliland. On February 26, in Hargeisa, Somaliland authorities arrested Mohamed Abdi Guled, editor of the privately owned weekly *Yoo'l*; he was released on March 20. On March 29, Ahmed Suleiman Dhuhul, a member of the executive committee of the *Somaliland Journalists Association* and producer of *Horyaal* private radio, was arrested for trying to report on a meeting of the upper house of Somaliland's parliament to debate the extension of the mandates of Somaliland's president and vice president. On July 13, in Hargeisa, two *Radio Horyaal* journalists were arrested after reporting on a clan conflict over land rights. On July 29, Somaliland authorities ordered the closure of

Horn Cable TV and arrested its chief editor. On August 4, Somaliland.org Web site reporter Foosi Saleban Awbiindhe was arrested in Burao after writing a report on corruption involving the governor. He was freed on August 26.

There were also several incidents in the Puntland region during the year. For example, on March 26, in Bossaso, security forces arrested Jama Ayanle Siti, a reporter for Laas Qoray newspaper and its Web site, and Abdiqani Hassan, a freelance reporter. On March 30, also in Bossaso, Jama Ayanle Feyte was sentenced to two years in prison after being accused of defamation and disseminating false information about the Puntland authorities. On August 25, Voice of America reporter Mohamed Yasin Isaq was arrested in northern Galkayo after releasing a report on the failure of the Puntland administration to curb growing insecurity in the town. On December 21, Puntland security forces again arrested Isaq, held him for 17 days, and released him without charge.

Canadian journalist Amanda Lindhout and Australian photojournalist Nigel Brennan, who were kidnapped in August 2008, were released on November 25 in Mogadishu, reportedly after ransoms were paid by the journalists' families. On January 17, Abdifatah Mohammed Elmi, who was kidnapped with Lindhout and Brennan, was freed.

The British and Spanish journalists who were abducted in November 2008 in Bosaso were released on January 4. They were held captive in an unknown location in the Puntland region.

Several broadcasting stations were closed during the year. At least two radio stations were closed by Islamic administrations. On April 9, al-Shabaab closed Radio Mandeeg after it broadcast news about a clan dispute. On April 27, the al-Shabaab administration in Baidoa closed Radio Jubba and detained three journalists. They were freed the following day after an agreement that the station would no longer broadcast music. On September 30, al-Shabaab ordered the closure of Radio Warsan, a local FM station in Baidoa, and detained the radio's director, Hilal Sheikh Shuayb. He was reportedly arrested for failure to obey al-Shabaab's order for radio stations to stop airing advertisements with music and to broadcast the call for prayer. He was released after two days in detention.

Journalists reported continued pressure from al-Shabaab and opposition elements to provide favorable reporting for each side, with threats of reprisal if reporting was perceived to be critical of them. Unlike in previous years, there were no reports that the TFG pressured journalists to produce positive reporting.

Internet Freedom.—Somalia has some of the lowest cost telecommunications and Internet services in the region. There were no government restrictions on access to the Internet; however, opposition elements in Mogadishu reportedly closely monitored Internet use and were believed to be the authors of anonymous e-mail threats to local journalists. Media outlets continued to create Web sites associated with their broadcast operations, resulting in a proliferation of news-oriented Somali language Web sites. According to International Telecommunication Union statistics for 2008, approximately one percent of the country's inhabitants used the Internet; however, independent researchers have noted that this figure may be higher because Internet users frequently accessed the technology in cybercafés and other public centers and Somalia's country domain was not in use.

Academic Freedom and Cultural Events.—There were several functioning universities—three each in Mogadishu, Somaliland, and Puntland. Dozens of others existed only in name. Authorities imposed restrictions on academic freedom, and academicians practiced self-censorship. In Puntland a government permit was required to conduct academic research.

During the year there were fewer attacks on schoolchildren, teachers, and schools across the country. Unlike in previous years, TFG forces were not responsible for any of these attacks. Al-Shabaab, other antigovernment groups, and ordinary criminals were responsible for targeted attacks. There were no developments in the August 2008 incident in which TFG security forces stormed the Somali Youth League primary and secondary school and the Imam Shafi'i Primary School in Mogadishu.

Al-Shabaab and armed militia associated with the former Union of Islamic Courts attacked schools and killed teachers and education workers. For example, on February 18, unknown armed militia forcefully entered Yusuf Kownayn school in Mogadishu's Wadajir District. The militia reportedly robbed, beat up, and harassed teachers and students.

There were no official restrictions on attending cultural events, playing music, or going to the cinema, although the security situation effectively restricted access to and organization of cultural events, except in al-Shabaab-controlled areas.

b. Freedom of Peaceful Assembly and Association.—*Freedom of Assembly.*—The TFG, the Somaliland constitution, and the Puntland Charter provide for freedom of

assembly; however, a ban on demonstrations continued, and the lack of security effectively limited this right in many areas. Security force use of excessive force to disperse demonstrators resulted in numerous deaths and injuries.

On several occasions Somaliland security personnel prevented opposition political parties from meeting with supporters and from holding public rallies. For example, on April 6, Somaliland police prevented opposition supporters from holding peaceful processions to commemorate Somalia National Movement Day. Police fired in the air and would not allow party leaders to address their supporters. Security agents often prevented opposition parties from organizing public gatherings and demonstrations.

On September 12, Somaliland security forces used excessive force when they killed four demonstrators and wounded many others during a peaceful protest in front of the parliament. Police and military personnel shot in the air to disperse hundreds of demonstrators, mostly youth, gathered to press authorities to reopen parliament. Police also arrested more than 100 persons in the incident. On September 13, the Somaliland Regional Security Committee (RSC) sentenced without due process 40 of those arrested to six months in prison. At year's end most of these persons were still detained. In its July report on Somaliland, Human Rights Watch accused the RSC of perpetrating gross human rights violations, stating the RSC routinely incarcerated persons, including juveniles, without any pretense of respecting the due process provided for in Somaliland's constitution.

There were no updates on the April and May 2008 killings of demonstrators in Somaliland and Mogadishu, respectively, and neither the TFG nor the Somaliland administration took action to punish the police perpetrators.

Unlike in previous years, there were no reports of use of excessive force by security forces in the south and central regions against persons assembled at food distribution centers.

Freedom of Association.—The TFC provides for freedom of association, and unlike in previous years, there were no reports that the TFG restricted freedom of association.

The Puntland Charter provides for freedom of association; however, the Puntland administration continued to ban all political parties.

The Somaliland Constitution provides for freedom of association, and this right was generally respected in practice; however, in July 2007 Somaliland authorities arrested three opposition politicians who were planning to form a new political party. These persons were released in December 2007. President Riyale stated that he issued an official pardon; however, their judicial record was not cleared, and the leaders remained effectively blocked from participating in the electoral process as candidates for any party.

Legislation governing the formation of political parties in Somaliland limits the number of parties allowed to contest general elections to three. An ad hoc commission nominated by the president and approved by the legislature was responsible for considering applications. The law provides that approved parties obtaining 20 percent of the vote in a general election are allowed to function. There were three approved political parties.

c. Freedom of Religion.—Although the TFC provides for religious freedom, this right was widely ignored in practice. The TFG generally did not enforce legal restrictions or protections concerning religious freedom.

On May 10, the TFG ratified legislation to implement Shari'a nationwide. In practice the TFG does not have the capacity or mechanisms to implement the legislation uniformly.

Militia groups, particularly those associated with al-Shabaab, often imposed a strict interpretation of Islam on communities under their control. There were reports that individuals who did not practice Islam in line with al-Shabaab's interpretation were discriminated against, and several nonobservant Somalis may have been killed.

The TFC, Somaliland constitution, and Puntland Charter establish Islam as the official religion. Somalis are overwhelmingly Sunni Muslims of a Sufi tradition. There also is a very small, extremely low-profile Christian community, in addition to small numbers of followers of other religions. The constitutions and Charters governing the various regions provide the right to study and discuss the religion of one's choice; however, in practice freedom of worship for non-Muslims was respected only for non-Somalis. Conversion from Islam is not allowed in any of the three regions. The TFG and the Somaliland and Puntland administrations did not have the capacity to enforce freedom of worship. The number of adherents of strains of conservative Islam and Islamic schools supported by religiously conservative sources continued to grow.

In Puntland only Shafi'iyyah, a moderate Islamic doctrine followed by most citizens, is allowed in public religious expression. Puntland security forces closely monitored religious activities. Religious schools and places of worship must receive permission to operate from the Ministry of Justice and Religious Affairs; such permission was granted routinely to schools and mosques espousing Shafi'iyyah.

In Somaliland religious schools and places of worship must obtain the Ministry of Religion's permission to operate. Proselytizing for any religion except Islam is prohibited in Puntland and Somaliland and effectively blocked by informal social consensus elsewhere. Apart from restrictions imposed by the security situation, Christian-based international relief organizations generally operated freely as long as they refrained from proselytizing; however, there were reports that a few Somalis who converted to Christianity were killed by al-Shabaab and allied extremist groups during the year.

Societal Abuses and Discrimination.—During the year, in the Bay and Lower Juba regions as well as in Mogadishu, al-Shabaab extremists killed several prominent clerics, most belonging to ASWJ. For example, on February 7, a religious scholar was shot and killed near his home in the Medina district of Mogadishu. In religiously motivated violence, al-Shabaab destroyed the tombs of revered ASWJ Sufi clerics and killed clerics, civilians, and government officials of Sufi orientation. For example, on March 28, in Barawe District, Bay Region, al-Shabaab forces destroyed five graves of famous clerics and removed their remains. On May 5, near Kamsuma village, in Kismayo District, al-Shabaab forces destroyed 10 graves of famous Islamic scholars. On June 10, in Bardhere town, in Gedo Region, al-Shabaab destroyed an undisclosed number of Sufi graves. In targeted assassinations, members of al-Shabaab killed TFG officials and allies whom they denounced as non-Muslims or apostates. On January 1, Sheikh Mohamed Ibrahim "Elbuur," a prominent religious leader, was killed by unidentified gunmen in Elasha Biyaha, an internally displaced persons (IDP) settlement on the outskirts of Mogadishu. Sheikh Mohamed was shot outside a mosque after evening prayers. He was reportedly targeted for his moderate views and condemnation of violence.

On April 5, in Jamame town in Lower Juba Region, a Koranic school teacher was beheaded by armed opposition group members. Al-Shabaab bombed cinemas, attacked persons whom they asserted were not behaving "appropriately," and banned all sporting events. On September 21, al-Shabaab killed two ASWJ clerics in Lower Shabelle Region when they opened fire on a congregation gathered for Eid prayers to mark the end of Ramadan.

Women were disproportionately affected by Islamic extremists during the year. In March al-Shabaab issued a decree mandating that women wear the hijab outside of the home; any woman found not wearing the hijab would be arrested and face punishment.

Non-Sunni Muslims often were viewed with suspicion by members of the Sunni majority. Non-Muslims who practiced their religion openly faced societal harassment. Those suspected of conversion faced harassment or even death from members of their community.

In April 2008 a worshipper was stabbed in a mosque in Somaliland after two groups clashed over differences in interpretation of Islam. There was no new information about this case.

The small Christian community kept a low profile. There were no public places of worship for non-Muslims. Christians, as well as other non-Muslims who proclaimed their religion, faced harassment or even death. On July 10, al-Shabaab beheaded seven persons in Bay Region after accusing them of converting to Christianity and spying for the TFG. On July 27, al-Shabaab reportedly beheaded four Christians after kidnapping them in Merka, Lower Shabelle. The four victims were working for a local organization caring for orphans and were killed after they reportedly refused to renounce Christianity. On September 15, al-Shabaab extremists killed Omar Khalafe after they found him in possession of several Bibles.

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

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The TFC and the Puntland Charter provide for freedom of movement; however, this right continued to be restricted in some parts of the country. Checkpoints operated by the TFG and its associated militias decreased. Checkpoints operated by armed militias, clan factions, and groups associated with al-Shabaab and its affiliates inhibited passage and exposed travelers to looting, extortion, rape, and harassment, particularly of civilians fleeing conflict. In the absence of effective

governance institutions, few citizens possessed the documents needed for international travel.

There were no reports of armed clan factions operating checkpoints during the year. Puntland security forces dismantled ad hoc checkpoints by armed clan militias. According to a report by UNOCHA, al-Shabaab established checkpoints at the exit/entry routes of the towns under its control for security reasons. There were no reports of checkpoints between towns or within towns, as was common in previous years.

The law does not prohibit forced exile; however, none of the authorities used forced exile during the year.

During the year there were no organized repatriations to any region.

Internally Displaced Persons (IDPs).—UN agencies estimated that since January 2007 more than 900,000 persons had fled their homes in Mogadishu and its surroundings as a result of targeted attacks by al-Shabaab and continued conflicts between TFG forces and antigovernment groups, especially al-Shabaab. The Somalia office of the UNHCR, based in Kenya, estimated that there were 1.5 million IDPs in the country as a result of internal conflict, flooding, droughts, and other causes going back to the early 1990s but with much higher numbers in recent years.

Many of the newly displaced lived without basic services, primarily settling on the Afgoye corridor between Mogadishu and Baidoa. Militia groups, aligned with both sides of the conflict, had restricted access during food distributions. The deterioration in security severely restricted the movement of aid workers and the distribution of urgently needed assistance to IDPs. Increased targeting of aid workers, “taxes” on humanitarian aid, and al-Shabaab’s expulsion in August of three UN agencies made it more difficult to deliver basic services. During the year Puntland authorities in Galkayo and Garowe forcibly repatriated Somalis from the south and central regions who were accused of being responsible for increased insecurity in the region. In December Puntland residents attacked IDPs from the south and called for their expulsion from Puntland, forcing IDPs to close their businesses. The attack followed president Faroole’s media comments accusing persons from the south of contributing to the rise in insecurity.

Protection of Refugees.—The 1990 constitution and TFC do not include provisions for granting asylum or refugee status in accordance with the 1951 Convention relating to the Status of Refugees and its 1967 protocol. The country signed the African Union Convention Governing the Specific Aspects of the Refugee Program in Africa in 1969, but neither ratified it nor deposited it. The TFC states that political asylum may be granted to persons who flee their or another country because of political, religious, and cultural persecution; however, there was no official system for providing such protection. The authorities provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened (complete with new standard language as applicable), and in practice the authorities granted refugee status or asylum. The UNHCR reported that at year’s end there were 2,960 refugees and 18,600 asylum seekers in Somaliland and Puntland, an increase over 2008. Human rights organizations estimated there were as many as 1.75 million displaced due to conflict, food shortages, and inflation. An additional 3.76 million citizens were in need of humanitarian assistance; however, insecurity in the south and central regions limited the access of UN and international aid workers. UN agencies reported that 10 humanitarian workers were killed during the year. Somaliland authorities cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. The UNHCR estimated that during the year more than 60,000 citizens attempted more than 900 illegal boat crossings from Somaliland, Puntland, and Djibouti to Yemen, resulting in at least 273 confirmed deaths. By the end of September, there were 50,486 recorded new arrivals in Yemen, a 50 percent increase over the number of arrivals during the same period in 2008. The UNHCR estimated that 158,000 Somali refugees were in Yemen at year’s end.

In 2007 the Kenyan government closed its border to all traffic to and from Somalia, although it later allowed humanitarian relief supplies to enter Somalia on a case-by-case basis. Despite the border closure, during the year 55,658 asylum seekers made their way to the already overcrowded Dadaab refugee camps in Kenya through the porous border. In the same period, an estimated 20,000 asylum seekers entered Ethiopia, bringing the number of Somali refugees there to more than 40,000. The sudden influx of 11,000 Somalis to Dolo Ado in southeastern Ethiopia led the UNHCR to establish a fourth refugee camp. By the end of the year, the Bolkamayo camp in southeastern Ethiopia had already reached its 20,000 refugee capacity. The UNHCR estimated that at year’s end it was providing humanitarian

assistance and protection to more than 541,600 Somalis in Kenya, Yemen, Ethiopia, Djibouti, and Uganda, an increase over 2008.

During the year there continued to be reports that Somali women, girls, and in isolated cases men were raped in refugee camps in Kenya.

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

On August 19, the TFG parliament approved the implementation of martial law in the country for three months; however, in practice martial law was not implemented in any area.

In the absence of effective governing institutions, citizens could not exercise the right to change their government. In January, through the Djibouti Process, the parliament was expanded, and it extended the TFG mandate until 2011, to prepare the country for national elections. Unlike in previous years when clan leaders operated as de facto rulers in most regions under the nominal control of the TFG, much of the country fell under the rule of armed militias, many associated with the al-Shabaab terrorist group. Although al-Shabaab often collaborated with clan leaders in the areas it controlled, many clan leaders continued to face opposition from intraclan groups and political factions.

Elections and Political Participation.—The TFG was formed in late 2004 and early 2005 following two years of negotiations in Kenya led by the Intergovernmental Authority on Development. The TFC is the legal framework for the transitional federal institutions of parliament and government, which operated under a five-year mandate originally scheduled to expire in 2009; however, the TFP, under the Djibouti peace process, extended the initial mandate by another two years until 2011. In 2004 the clan-based TFP elected Abdullahi Yusuf Ahmed, the former president of Puntland, as transitional federal president, and he then appointed Ali Mohammed Gedi as prime minister. Gedi resigned in October 2007. In November 2007 President Yusuf appointed Nur “Adde” Hassan Hussein as prime minister. In 2008 Yusuf attempted to remove Prime Minister Hussein, first by supporting a no-confidence parliamentary vote and then by dismissing him through a presidential decree. Both plans backfired, and in December 2008, after significant discord within the TFG, Abdullahi Yusuf resigned. Speaker of Parliament Sheikh Adan Mohamed Nur became interim president following Yusuf’s resignation. The TFC stipulates that the interim president remain in office for 30 days until the parliament selects a new president.

In August 2008 the leaders of the TFG and the Alliance for the Reliberation of Somalia (ARS) signed the UN-brokered Djibouti Agreement and agreed to cease all armed confrontation, ensure unhindered humanitarian access, and work toward a durable peace. The Djibouti Agreement set the stage for the formation of a unity government in January 2009. Between January 22 and 24, members of the TFP relocated to Djibouti from the previous seat of parliament in Baidoa to take part in the election of a new TFG president. On January 26, while in Djibouti, the TFP adopted an amendment to the TFC to both extend the TFG’s initial five-year mandate by an additional two years and allow for the expansion of the number of MPs from 275 to 550 to accommodate 275 new MPs from ARS under the Djibouti Agreement. On January 31, the expanded TFP elected Sheikh Sharif Sheikh Ahmed—who was until then ARS executive chairman—as the new TFG president. The election was considered free and fair, and it attracted more than a dozen candidates, including former prime minister Nur Hassan Hussein. On February 13, while in Djibouti, President Sharif appointed Omar Abdirashid Ali Sharmarke as the new TFG prime minister. On February 20, Prime Minister Sharmarke formed his first government with 36 ministers. On February 23 and 26, President Sharif and Prime Minister Sharmarke relocated to Mogadishu. It was the first time that the TFG and TFP were based in the country’s capital since the TFG was formed.

Somaliland has a constitution and bicameral parliament with proportional clan representation and an elected president and vice president. Somaliland authorities have established functioning administrative institutions in nearly all of the territory they claim, which is the same as the Somaliland state that achieved international recognition briefly in 1960 before entering into a union with the former Italian colony of Somalia. In a 2001 referendum, 97 percent of voters supported Somaliland independence.

Elected in April 2003, President of Somaliland Dahir Riyale Kahin initiated several actions to postpone elections for the fourth time and extend his term in office. Beginning in 2006 Riyale initiated a process to extend the mandate of the unelected upper house of parliament, the Guurti, for four years. In April 2008 the Guurti postponed presidential and local elections and extended President Riyale’s term in office for an additional year. After successful international mediation, the major political

parties agreed to hold presidential elections in April 2009 after a national voter registration process under which each Somaliland citizen would receive a national identity card. On March 3, the National Electoral Commission announced that presidential elections would be held on May 31; however, on March 28, the Guurti voted to postpone the elections and extend President Riyale's term in office to September 27. The political impasse deepened, and on August 29, police closed the parliament building. In March and September, opposition political parties protested the decision to extend Riyale's term despite an earlier agreement not to allow any further extensions, and in September legislators tabled an impeachment motion in parliament. During a demonstration on September 12, Somaliland police fired into a crowd gathered in front of the parliament, killing four demonstrators and wounding others. Police arrested and detained more than 100 persons. An extrajudicial process resulted in an estimated 40 persons being sentenced to six months in prison. The deadlock was broken on September 25, when the Guurti unanimously endorsed a six-point memorandum of understanding (MOU) produced by the international community to move the electoral process forward. The Guurti announced that President Riyale's term in office would end one month after elections were held. On September 30, the president and the two opposition political party leaders signed the MOU. On October 4 and 5, to begin implementing the MOU, all members of the National Electoral Commission resigned and President Riyale appointed a new commission, endorsed by all stakeholders. At year's end no date had been set for the elections.

In 2007 Somaliland opposition figures Mohamed Abdi Gaboose, Mohamed Hashi Elmi, and Jamal Aideed Ibrahim were released from prison after serving three months on charges of founding an illegal organization and creating instability. At year's end the three leaders' political rights had not been fully restored. They were able to register to vote, but they were not allowed to participate in the electoral process as candidates for any party.

In 1998 Puntland declared itself a semiautonomous regional government during a consultative conference of delegates from six regions that included traditional community elders, the leadership of political organizations, members of local legislative assemblies, regional administrators, and civil society representatives. Puntland has a single-chamber quasi-legislative branch called the Council of Elders, which has played a largely consultative role. Political parties were banned; however, on June 29, the Puntland parliament endorsed a constitution allowing the establishment of multiparty democracy in two years. The new constitution, which is subject to a public referendum, limits the number of political parties to three. On January 8, the council elected Abdirahman Mohamed Mohamud "Farole" as Puntland's president. The former president, General Mohamud Muse Hersi "Adde Muse," who was one of several candidates, conceded defeat and peacefully handed over power to the new president. Parliamentary representatives are seated by their respective clan elders in the six administrative regions, and the same 66 representatives announced in December 2008 by Puntland's election and ratification commission remained in office. On January 1, the new members of Parliament were sworn in. On January 17, President Farole appointed 16 ministers, including three from the previous administration, to form a new cabinet.

Some Puntland cabinet ministers maintained their own militias, which contributed to a general lack of security. As part of the election process, each presidential candidate was required to pay a \$5,000 qualification fee and each vice presidential candidate a \$2,500 fee. Some of these funds were used for security during the elections.

Somaliland and Puntland continued to contest parts of Sanaag Region, as well as Sool Region and the Buhodle Ddistrict of Togdheer Region during the year. Both governments maintained elements of their administrations in Sanaag and Sool regions, and both governments exerted influence in various communities. During the year there were no renewed hostilities in Las Anod, Sool Region. In January militias suspected of being from Puntland killed four Somaliland officials—two civil and two military—who were registering voters in Widhwidh, Sool Region. Unlike in 2008, there were no reports of population displacement due to conflict between Puntland and Somaliland. Somaliland forces remained in control of Las Anod, although Puntland forces threatened attack and had reportedly expanded their security presence in surrounding areas.

There were 37 women in the expanded 550-seat TFP; there were only seven women selected as MPs out of the additional 275 MPs that were appointed when the ARS entered the TFG. The number fell short of the TFC requirement that at least 12 percent of parliamentary seats be reserved for women. Among the 39 ministers and six state ministers appointed in February and August, there were only three women ministers. Minister of Health Qamar Aden Ali, who was killed in the December 3 suicide bombing, was not replaced.

In the Somaliland government of 28 ministers, a woman held the post of gender and family minister, and two women were elected to the 82-member lower house of parliament.

In Puntland there have never been any women on the Puntland Council of Elders. In December there were two women selected as representatives to the 66-member parliament, down from five in the previous parliament. Asha Gelle was reappointed minister of gender and family and as in the previous administration was the only female minister in the new Puntland administration. In January three women deputy ministers were appointed to the cabinet out of a total of 22 deputy ministers.

There were 60 members of the minority Bantu and Arab ethnic groups in the TFG and four in the TFG cabinet. There were no members of minority groups in the Somaliland parliament and cabinet. There are 136 distinct subclans in Puntland, 46 of which were represented in the Council of Elders. These are the largest subclans, and each has one to four representatives in the 66-member parliament. The other subclans do not necessarily consider themselves “minorities,” and most thought they were represented within the larger Darod/Harti clan and the parliament.

Section 4. Official Corruption and Government Transparency

Official corruption was endemic throughout the country, although the TFG took measures during the year to limit corruption. For example, the TFG appointed a commission to oversee port revenues, resulting in a significant increase in funds for the treasury. The law does not provide criminal penalties for official corruption, and officials frequently engaged in corrupt practices with impunity. Corruption existed in almost every transaction in the country, and there is no regulatory or penal framework in place to combat it. This is true even in the provision of humanitarian assistance. The 2009 World Bank Worldwide Governance Indicators reflected that corruption was a severe problem. Government officials in all three regions were not subject to financial disclosure laws.

There were no laws providing for public access to government information.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups operated in some of the country, investigating and publishing their findings on human rights cases; however, security considerations constrained their ability to operate freely. In contrast with previous years, government officials were responsive to their views, although the TFG had limited capacity to implement human rights programs. There was also an increase in al-Shabaab’s targeting of civil society groups, peace activists, media, and human rights organizations. The Mogadishu-based Dr. Ismael Jumale Human Rights Center (DIJHRC), Elman Peace and Human Rights Center (EPHRC), Peace and Human Rights Network (INXA), Isha Baidoa Human Rights Organization in the Bay and Bakol regions, KISIMA in Kismayo, Coalition of Grassroots Women’s Organization (COGWO), and other local human rights groups were active during the year, although less than previously because of the increased targeting by al-Shabaab. The DIJHRC, EPHRC, and COGWO continued to investigate and document human rights violations, study the causes of the continuing conflict in the Mogadishu area, and conduct human rights monitoring. The Mogadishu-based National Union of Somali Journalists (NUSOJ) continued to advocate for media freedom throughout the country. The Mogadishu-based Center for Research and Dialogue, several women’s NGOs, and other civil society organizations also played a role in promoting intraclan dialogue in Puntland and parts of the south central region.

Somaliland human rights organizations accused authorities of meddling in their internal affairs and fomenting conflict among them.

During the year attacks and incidents of harassment of humanitarian, religious, civil society, and NGO workers resulted in at least 10 deaths. Unlike in previous years, TFG officials did not accuse NGOs and civil society organizations of siding with opposition groups and exaggerating human rights abuses committed by TFG forces, nor did the TFG intimidate and arrest NGO workers; however, on numerous occasions during the year al-Shabaab administrations in Bay, Bakol, and Gedo regions ordered local and international NGOs to register and pay “taxes,” threatening serious consequences for noncompliance. Al-Shabaab militia raided and looted humanitarian supplies and equipment from NGO compounds in Bay, Bakol, Middle Shabelle, and Middle Juba regions. In March al-Shabaab ordered all international aid agencies to leave Bay and Bakol regions and ordered all local NGOs to register. After public protest, this decision was reversed, but two international aid agencies were expelled. On October 7, militia groups associated with al-Shabaab dropped leaflets at Medina Hospital warning the International Committee of the Red Cross,

which operates the hospital, to immediately stop its work. The leaflets, which accused the hospital of being a TFG institution, also warned the hospital administration and staff to cease operations and vacate the hospital or face unspecified consequences.

Somaliland authorities ordered NGOs operating in Somaliland to present their programs and budgets to the authorities or cease operations.

There were numerous occurrences of looting, hijacking, and attacks on convoys of WFP and other humanitarian relief shipments during the year. On January 2, al-Shabaab militias broke into and looted relief food rations from the WFP warehouse in Merka, Lower Shabelle Region.

There were no developments in cases of attacks on aid workers, human rights observers, and international NGOs reported in previous years.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The TFC prohibits discrimination on the basis of gender or national origin; however, societal discrimination based on clan and ethnic origin, violence against women, and widespread abuse of children continued to be serious problems. The Somaliland constitution and the Puntland Charter prohibit discrimination on the basis of gender or national origin, but these rights were not respected in practice.

Women.—Laws prohibiting rape exist; however, they were not enforced. There were no laws against spousal rape. There were no reports that rape cases were prosecuted during the year. NGOs documented patterns of rape perpetrated with impunity, particularly of women displaced from their homes due to civil conflict or who were members of minority clans. Police and militia members engaged in rape, and rape was commonly practiced in interclan conflicts. Traditional approaches to dealing with rape tended to ignore the victim's situation and instead communalized the resolution or compensation for rape through a negotiation between members of the perpetrator's and the victim's clans. Victims suffered from subsequent discrimination based on attributions of "impurity." Women and girls in IDP camps were especially vulnerable to sexual violence, contributing to the spread of HIV/AIDS. In March 2008 the UNIE reported that in Mogadishu and Kismayo IDP women and girls, particularly those belonging to minority groups, were increasingly becoming the targets of sexual violence by youth gangs. In Somaliland gang rape continued to be a problem in urban areas, primarily by youth gangs, members of police forces, and male students. Many of these cases occurred in poorer neighborhoods and among immigrants, refugee returnees, and displaced rural populations living in urban areas. Many cases were not reported. According to UNIE's October report, sexual violence, including gang rape of teenage girls, was on the rise. In the report, UNICEF monitors reported 11 rape cases in IDP camps in Puntland and 13 cases in Somaliland camps; victims included mentally and physically handicapped children.

Domestic violence against women remained a serious problem. There are no laws specifically addressing domestic violence; however, both Shari'a and customary law address the resolution of family disputes. The UNIE reported that "honor" or revenge killings continued. No statistical information was available on the extent of domestic violence. Sexual violence in the home was reportedly a serious problem, linked to general gender discrimination. Women suffered disproportionately in the country's civil war and interclan fighting.

Prostitution is illegal, and there were no statistics on its prevalence. Sexual harassment was a problem, but there were no laws, data, or government programs to address it.

In the country's overwhelmingly patriarchal culture, women do not have the same rights as men and are systematically subordinated. Polygamy is permitted. Under laws promulgated by the former government, girls and women could inherit property, but only half the amount to which their minor and adult brothers were entitled. Similarly, according to Shari'a and the local tradition of blood compensation, anyone found guilty of the death of a woman must pay half the amount that would be payable to the aggrieved family if the victim were male.

Women do not have the right to decide freely the number, spacing, and timing of their children and often faced discrimination, coercion, and violence when they attempted to exercise these rights. In part because of cultural sensitivities, there was limited information about and access to contraception. With inadequate health care, women rarely had skilled attendance during childbirth or essential obstetric and postpartum care. In Somaliland and Puntland, international programs ensured that women were equally diagnosed and treated for sexually transmitted infections, including HIV. There were limited programs in the southern and central regions.

Women's groups in Mogadishu, Hargeisa (Somaliland), Bossaso (Puntland), and other towns actively promoted equal rights for women and advocated the inclusion

of women in responsible government positions, and observers reported some improvement in the profile and political participation of women in the country.

Children.—In the absence of functioning central authority, births were not registered in Puntland or southern and central Somalia. The failure to register births was not a key factor in the denial of public services. Birth registration was taken seriously in Somaliland for hospital and home births; however, limited government capacity, combined with the nomadic lifestyle of many persons, caused numerous births to go unregistered. In Somaliland some public services may not be available to children who were not properly registered.

During the year UNICEF reported that more than 60 percent of schools in Mogadishu were closed and the remaining schools operated with reduced enrollment and attendance, as many parents withdrew their children because of security concerns. Since the collapse of the state in 1991, education services have been partially revived in various forms, including a traditional system of Koranic schools; public primary and secondary school systems financed by communities, foreign donors, and the administrations in Somaliland and Puntland; Islamic charity-run schools; and a number of privately run primary and secondary schools, universities, and vocational training institutes. Few children who entered primary school completed secondary school. There was a continued influx of foreign teachers to teach in private Koranic schools and madrassas. These schools were inexpensive and provided basic education; however, there were reports that they required the veiling of small girls and other conservative Islamic practices not traditionally found in the local culture.

There was no formal system of state-provided medical care for children; however, children were generally treated for life-threatening illnesses and injuries at hospitals, even if their families could not afford to pay. Boys and girls had equal access to these services.

Child abuse and rape were serious problems, although no statistics on its prevalence were available. A 2003 UNICEF report noted that nearly a third of all displaced children reported rape as a problem within their families, as did 17 percent of children in the general population.

Children remained among the chief victims of continuing societal violence. Child protection monitors verified that hundreds of children were killed or injured during the year as a direct result of conflict.

Militia members raped children during the conflict and departure of civilians from Mogadishu.

The practice of female genital mutilation (FGM) was widespread throughout the country. As many as 98 percent of women had undergone FGM; the majority were subjected to infibulation, the most severe form of FGM. In Somaliland and Puntland, FGM is illegal, but the law was not enforced. UN agencies and NGOs tried to educate the population about the dangers of FGM, but there were no reliable statistics to measure the success of their programs.

Children were occasionally enlisted in the TFG security forces. Antigovernment groups routinely recruited and used child soldiers (see section 1.g). The practice of “asi walid,” a custom whereby parents placed their children in prison for disciplinary purposes and without any legal procedure, continued. Many of these juveniles were incarcerated with adults. Close to 100 of the estimated 400 prisoners in the TFG-operated Mogadishu central prison were children detained at the request of their parents or guardians for truancy and disobedience.

A UNICEF monitoring trip at the beginning of the year revealed that many children were imprisoned in Somaliland, most without passing through the court system, usually for disobedience to parents or for petty crimes. UNICEF and the UNDP started a project to provide the children with legal assistance, and many were released. The juvenile justice program also educated justices and lawyers about human rights problems for children.

Child prostitution was practiced; however, because it was culturally proscribed and not reported, no statistics were available on its prevalence. Child prostitution, like all other forms of prostitution, was legally prohibited in all areas. In most cases regional authorities imprisoned persons from five to 15 years for this crime. In al-Shabaab areas, the penalty may be flogging or even stoning to death. There is no formal statutory rape law or minimum age for consensual sex. Child pornography is not expressly prohibited.

Trafficking in Persons.—The TFC does not explicitly prohibit trafficking. In February 2008 Puntland authorities announced that persons who were caught engaging in human trafficking would be punished by death. During the year Puntland authorities combated human trafficking. For example, on February 15, Puntland police raided the small coastal hamlet of Marera, seized three boats, and arrested 12 suspected traffickers. On July 2, Puntland authorities arrested six Yemeni in Zaylac

District for trafficking. On July 24, Bosasso police arrested six human traffickers and dispersed 84 persons who were attempting to use the trafficker's services. In December, off the coast of Bossaso, the Puntland coast guard arrested four human smugglers whom they also suspected of piracy. At year's end they remained in detention pending a continuing investigation. The seven human traffickers who were arrested in April 2008 in the Maydh District of Sanaag Region were prosecuted through Puntland's court system. One person was released and the other six were sentenced to prison terms of three to six years.

There are no laws against slavery or forced or involuntary prostitution. Information regarding trafficking in the country was extremely difficult to obtain or verify; however, the Somali territory was known to be a source, transit, and possibly destination country for trafficked women and children, and there were reports of trafficking during the year. Human smuggling was widespread, and there was evidence that traffickers utilized the same networks and methods as those used by smugglers. Dubious employment agencies were involved with or served as fronts for traffickers, especially to target individuals destined for the Gulf States. Somali women were trafficked to destinations in the Middle East, including Iraq, Lebanon, and Syria, as well as to South Africa, for domestic labor and commercial sexual exploitation. Somali men were trafficked into labor exploitation as herdsmen and menial workers in the Gulf States. Somali children were reportedly trafficked to Djibouti, Malawi, and Tanzania for commercial sexual exploitation and exploitative child labor. Ethiopian women were believed to be trafficked to and through the country to the Middle East for forced labor or sexual exploitation. Small numbers of Cambodian men were trafficked to work on long-range fishing boats operating off the coast of Somalia. Armed militias reportedly also trafficked women and children for forced labor or sexual exploitation, and some of those victims also may have been trafficked to the Middle East and Europe. Trafficking networks were reported to be involved in transporting child victims to South Africa for sexual exploitation.

Puntland was noted by human rights organizations as an entry point for trafficking. The UNIE reported that trafficking in persons remained rampant and that the lack of an effective authority to police the country's long coastline contributed to trafficking. Various forms of trafficking are prohibited under some interpretations of Shari'a and customary law, but there was no unified policing in the country to combat these practices, nor was there an effective justice system for the prosecution of traffickers.

Because of an inability to provide care for all family members, some persons willingly surrendered custody of their children to persons with whom they shared family relations and clan linkages. Some of these children may have become victims of forced labor or commercial sexual exploitation. At various times, political authorities in the regional administrations of Somaliland and Puntland expressed a commitment to address trafficking, but corruption and lack of resources prevented the development of effective policies and programs. Some officials in these administrations were known to facilitate or condone human trafficking. No resources were devoted to trafficking prevention or to victim protection. There were no reports of trafficking-related arrests or prosecutions. Somaliland and Puntland officials were not trained to identify or assist trafficking victims. NGOs worked with IDPs, some of whom may have been trafficking victims.

Persons With Disabilities.—The TFC, the Somaliland constitution, and the Puntland Charter all prohibit discrimination against persons with disabilities.

The TFC states that the state is responsible for the welfare of persons with disabilities, along with orphans, widows, heroes who contributed and fought in defense of the country, and the elderly.

The Somaliland constitution notes that the state is responsible for the health, care, development, and education of mothers, children, the disabled, persons who have no one to care for them, and mentally handicapped persons.

The Puntland Charter safeguards and advocates for the rights of orphans, disabled persons, and whoever needs the protection of the law.

There are no laws in any of the three areas to ensure building access.

In the absence of functioning governing institutions, the needs of most persons with disabilities were not addressed. Several local NGOs in Somaliland provided services for persons with disabilities. Associations of persons with disabilities reported numerous cases of discrimination to the UNIE.

There was widespread abuse of persons with mental illness. Without a public health infrastructure, there were no specialized institutions to provide care or education for the mentally ill. It was common for such persons to be chained to a tree or restrained within their homes.

National/Racial/Ethnic Minorities.—More than 85 percent of the population shared a common ethnic heritage, religion, and nomad-influenced culture. The UNIE estimated that minority groups constitute approximately 22 percent of the population. In most areas members of groups other than the predominant clan were excluded from effective participation in governing institutions and were subject to discrimination in employment, judicial proceedings, and access to public services.

Minority groups and low-caste clans included the Bantu (the largest minority group), the Benadiri, Rer Hamar, Brawanese, Swahili, Tumul, Yibir, Yaxar, Madhiban, Hawrarsame, Muse Dheryo, and Faqayaqub. Inter-marriage between minority groups and mainstream clans was restricted by custom. Minority groups had no armed militias and continued to be disproportionately subject to killings, torture, rape, kidnapping for ransom, and looting of land and property with impunity by faction militias and majority clan members. Many minority communities continued to live in deep poverty and suffer from numerous forms of discrimination and exclusion.

For example, in Galkayo in September 2008, militiamen from the Omar Mohamud subclan shot and killed a taxi driver. The driver was from the Marehan clan, and most residents reported that the killing was clan-linked. There were no developments in this case.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Sexual orientation is considered a taboo topic, and there is no public discussion of this issue in any region of the country. There were no reports of societal violence or discrimination based on sexual orientation.

Other Societal Violence or Discrimination.—Persons with HIV/AIDS continued to face discrimination and abuse in their local communities, and by employers in all parts of the country. UNICEF reported that persons with HIV/AIDS were subjected to physical abuse, rejected by their families, and subjected to workplace discrimination and dismissal. Children with HIV-positive parent(s) also suffered discrimination, which hindered prevention efforts and access to services.

Section 7. Worker Rights

a. The Right of Association.—The 1960 constitution allows workers to form and join unions, and the TFG respected this right; however, due to the civil war and clan fighting, the only partially functioning labor union in the country was the journalist association NUSOJ. Other unions existed in name but engaged in no activities during the year. The Puntland Charter and the Somaliland constitution also protect workers' freedom of association; however, labor laws were not enforced in the country, resulting in an absence of effective protection for workers' rights.

The Somaliland Trade Union Organization (SOLTUO), formed in 2004, claimed to have 26,000 members representing 21 individual unions. SOLTUO claimed to be democratic and independent, but there were no activities undertaken by the SOLTUO during the year.

The TFC allows unions to conduct their activities without interference and grants workers the right to strike. In practice there were no reports of workers attempting to strike.

b. The Right to Organize and Bargain Collectively.—Collective bargaining is protected by laws in Somalia, Somaliland, and Puntland, but they are generally not enforced.

Wages and work conditions in the traditional culture were established largely on the basis of ad hoc arrangements based on supply, demand, and the influence of the worker's clan.

The TFC allows unions to conduct their activities without interference and grants workers the right to strike. There were no reports of antiunion discrimination.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The pre-1991 penal code and the TFC prohibit forced or compulsory labor, including by children; however, there were reports that such practices occurred. It could not be confirmed whether, as had been reported in 2005, local clan militias or other armed militia forced members of minority groups to work on banana plantations without compensation. It also could not be confirmed if in Middle and Lower Juba and Lower Shabelle, Bantus were used as forced labor, as in previous years.

d. Prohibition of Child Labor and Minimum Age for Employment.—The pre-1991 labor code and the TFC prohibit child labor; however, child labor was widespread.

The recruiting and use of child soldiers was a problem (see section 1.g.). Young persons commonly were employed in herding, agriculture, and household labor from an early age. Children broke rocks into gravel and worked as vendors of cigarettes and khat on the streets. UNICEF estimated that from 1999 to 2005, 36 percent of

children between the ages of five and 14 were in the workforce—31 percent of males and 41 percent of females. The actual percentage of working children was believed to be higher. The lack of educational opportunities and severely depressed economic conditions contributed to the prevalence of child labor.

In Somalia the Ministries of Labor and Social Affairs and Gender and Family Affairs were responsible for enforcing child labor laws. In Somaliland it was the Ministry of Family and Social Development, and in Puntland it was the Ministry of Labor, Youth and Sports. In practice none of these ministries enforced these laws.

e. Acceptable Conditions of Work. Although the TFC and the Somaliland constitution both include provisions for acceptable working conditions, there was no organized effort by any of the factions or de facto regional administrations to monitor acceptable conditions of work during the year. There is no national minimum wage. There was no information on the existence or status of foreign or migrant workers in the country. With an estimated 43 percent of the population earning less than 40,000 Somali shillings (less than \$1) per day, there was no mechanism to attain a decent standard of living for workers and their families. During the year high inflation, continued insecurity, and other factors significantly decreased the standard of living in all areas of the country. By year's end 3.5 million Somalis required emergency humanitarian assistance.

SOUTH AFRICA

South Africa is a multiparty parliamentary democracy in which constitutional power is shared between the president and the parliament. The country has a population of approximately 49.3 million. On April 22, in generally free and fair national elections the ruling African National Congress (ANC) gained 65.9 percent of the vote, and its parliamentary representation was reduced from 297 to 264 of 400 seats. Parliament then elected ANC President Jacob Zuma as the country's president. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens. However, the government, nongovernmental organizations (NGOs), and local media reported the following serious human rights problems: police use of excessive force against suspects and detainees, which resulted in deaths and injuries; vigilante and mob violence; abuse of prisoners, including beatings and rape and severe overcrowding of prisons; lengthy delays in trials and prolonged pretrial detention; forcible dispersal of demonstrations; pervasive violence against women and children and societal discrimination against women, persons with disabilities and the lesbian, gay, bisexual, and transgender (LGBT) community; trafficking in persons; violence resulting from racial and ethnic tensions and conflicts with foreigners; and child labor, including forced child labor and child prostitution.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of politically motivated killings by the government or its agents; however, police use of lethal force during apprehensions resulted in a significant number of deaths, and deaths in police custody were a problem. Police efforts to control vigilante violence also resulted in deaths. In some cases, the government investigated and punished the perpetrators.

According to the governmental Independent Complaints Directorate (ICD), there were 300 deaths in police custody and 612 deaths as a result of other police action in the year ending March 31, a 15 percent increase from the previous year. The ICD cited 29 deaths due to the negligent use of a firearm; domestic violence and off-duty shootings by police resulted in 39 deaths. Forty-four civilians died due to negligent handling of a police vehicle. The ICD report expressed concern that 32 bystanders were killed during police activity.

According to the ICD, KwaZulu-Natal (KZN) Province recorded a 47 percent increase in deaths in police custody and as a result of other police action, accounting for 258 of the national total. Of these, authorities attributed 117 deaths to natural causes, 108 to suicide, 48 to injuries sustained prior to detention, and 27 to injuries sustained in custody.

Police struggled to address a violent crime rate that ranked highest in the world. Following inflammatory comments by Deputy Police Minister Fikile Mbalula, who called for the use of firepower against criminals, the media and civil society groups

criticized what they called the police's "shoot to kill" policy. President Zuma stressed that the police do not have a "license to kill" and attributed the use of excessive force to a lack of training and resources.

On November 1, two intoxicated off-duty police officers in Pretoria shot and killed a street vendor after refusing to pay for the food the officers had eaten. Both officers were arrested, and the ICD launched an investigation; there were no further developments by year's end.

On November 7, outside Johannesburg, three-year-old Atlegang Phalane was shot and killed when police officer Shadrack Malaka, a constable, fired through the window of the parked car Phalane was sitting in. Malaka stated he mistook a metal pipe the child was holding for a gun. Malaka was arrested for murder and denied bail; the trial was pending at year's end.

Deaths while in police custody were a problem. On February 9, police officers kidnapped Sidwell Mkwambi and Siyabulela Njova, took them to the offices of the Bellville South Priority Crime Investigation (DPCI) unit, also known as "the Hawks," and assaulted them for hours. According to Njova, the men were beaten with fists, handcuffs, the butt of a gun, and a traditional heavy leather whip during interrogation. In a statement to police, Njova said he later saw unit members dragging Mkwambi's limp body down a passage. On February 11, Mkwambi's body was found in a police vehicle parked outside Tygerberg Forensic Pathology Services. The ICD stated that an investigation produced enough evidence to establish a murder case against 14 officers from the specialized unit; however, the Western Cape police commissioner had neither suspended nor arrested the officers by year's end.

There were reports of deaths from political conflict among parties, including killings between rival parties during the election period (see section 3).

There were no developments in the 2007 arrests of three persons in connection with the 2006 killings of Estcourt deputy mayor Dolly Dladla and councilor Music Mchunu, both members of the Inkatha Freedom Party (IFP).

Incidents of vigilante violence and mob killing continued, particularly in Gauteng, the Western Cape, Mpumalanga, and KZN in the rural areas and townships. For example, on January 4, in Durban, a Zimbabwean citizen and a Tanzanian citizen fell to their deaths from a high-rise building as they tried to escape a 150-person mob armed with homemade knives. Durban ANC municipal councilor Vusi Khoza, considered to be the mob leader, was charged with murder; the trial continued at year's end.

There were no further developments in the June 2008 stoning of a man by vigilantes who suspected he had stabbed another man in KZN.

Xenophobic attacks on foreign African migrants remained a problem; however, attacks did not occur on the scale of the previous year.

Killings and other violent crimes against white farmers and, on occasion, their families, continued in rural areas. Despite concern among the farmers that they were targeted for racial and political reasons, studies indicated that the perpetrators generally were common criminals motivated by financial gain. The South African Police Service (SAPS) incorporated farm attacks and killings into overall statistics of violence and homicide, rather than reporting them separately. The Freedom Front Plus, an Afrikaner minority political party, and farmers' unions criticized what they viewed as an inadequate government response to the scale and brutality of farm attacks.

There were reports that persons accused of witchcraft were attacked and driven from their villages in rural communities, and in some cases murdered, particularly in Limpopo, Mpumalanga, KZN, and the Eastern Cape, where suspicion of witchcraft activity could lead to accusation, assault, forced exile, and killings, particularly of elderly women. Traditional leaders generally cooperated with government educational programs and reported threats against persons suspected of witchcraft.

For example, on March 13, a man in the Eastern Cape killed two women he suspected of trying to thwart his financial success through witchcraft and then hanged himself.

The September 2008 trial of two brothers in the Eastern Cape who admitted to killing their younger brother whom they suspected of practicing witchcraft continued at year's end. There were no developments in the 2007 killing of three family members accused of witchcraft in the Eastern Cape.

Ritual killings (muthi killings), especially of children, to obtain body parts believed by some to enhance traditional medicine practices, remained a problem. SAPS incorporated occult-related cases into its standard crime reporting of killings and assaults; specific muthi killing statistics were unavailable.

On March 4, the mutilated body of single mother Norah Dyanti was found outside of her home in the village of Etholeni in the Eastern Cape. Her throat and genitals had been cut out and her body exhibited multiple stab wounds. Police believed

Dyanti was one of several victims of serial killings perpetrated by a crime syndicate, but they did not classify it as a muthi killing.

There were no further developments in the November 2008 suspected muthi attack on a man in the Eastern Cape, in which an assailant cut off the man's nose and genitalia. SAPS believed the attacker was a serial killer who used body parts in the preparation of muthi.

In August 2007, a South African military court found Air Force Sergeant Philippus Jacobus Venter guilty of raping and murdering a 14-year-old girl and assaulting a Burundian security guard while serving as a peacekeeper in Burundi in 2004. He was sentenced to 24 years' imprisonment. In October 2008 Venter appealed the ruling, claiming his constitutional right to a fair trial was breached, as the arresting military police officer failed to follow proper procedure. The judge reserved judgment on Venter's appeal; the case was pending at year's end.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution and law prohibit such practices; however, some police officers reportedly tortured, beat, raped, and otherwise abused suspects. According to Amnesty International in a September memoranda to the government, methods included the use of electric shock, suffocation, and prolonged assaults with batons, fists, and boot-ed feet. Police torture and physical abuse allegedly occurred during interrogation, arrest, detention, and searches of persons' homes, and sometimes resulted in death (see section 1.a.).

During the year the ICD reported 25 complaints of rape; however, unlike in previous years, they did not report complaints of torture. The report stated that three cases of torture from previous years were investigated but did not indicate the disposition of the complaints. The ICD received 928 reports of assault with the intent to cause grievous bodily harm. Officers convicted of this charge were given sentences ranging from verbal and written warnings to fines and dismissal from service. The report did not stipulate how many officers were convicted.

On September 10, David Ndzumeka alleged he was kidnapped and tortured for several hours by Cape Town members of the DPCI. Ndzumeka stated that the officers placed a plastic bag over his head and repeatedly suffocated him until he was unconscious. An ICD investigation into the incident continued at year's end.

In a 2008 report to parliament, the ICD reported it was investigating 20 reports of torture and 739 reports of assault with the intent to cause grievous bodily harm. There were no developments in the following 2008 cases: the alleged torture in October of two brothers suspected of theft by 10 police officers from the Vosloorus Tracing Unit, the alleged beating and torture in November of a 17-year-old by six police officers from the Diepkloof Police Station, and the November death of Tefo Kgame of unnatural causes after police allegedly beat him at the same station.

Incidents of police harassment of foreigners continued, particularly during coordinated police raids in areas where foreign nationals resided. Some state hospitals reportedly refused emergency treatment on a routine basis to indigent foreigners, despite regulations requiring that hospitals provide such treatment.

Prison and Detention Center Conditions.—The majority of the 237 operational prisons did not meet international standards, and prison conditions did not always meet the country's minimum legal requirements. The Judicial Inspectorate of Prisons (JIP) received 2,010 complaints of assaults against prisoners by correctional officers for the reporting period from April 2008 through March 2009. There were several reports of physical and sexual abuse by both prison officials and prisoners. Some detainees awaiting trial reportedly contracted HIV/AIDS through rape. According to the JIP report, there were 1,048 prison deaths during the reporting period. Of these, 982 were from natural causes, including HIV/AIDS; the remaining deaths were the result of suicides, assaults, or accidents. Of the total deaths, 751 were sentenced prisoners, while the remaining 297 were pretrial detainees.

According to the JIP report, there were 165,230 prisoners in facilities designed to hold 114,822. Of these, 3,659 were women. There were 1,663 juveniles in prison facilities, 803 of whom were pretrial detainees. Due to severe overcrowding, many prisoners had less than 13 square feet in which to eat, sleep, and spend 23 hours a day. The unmet norm applied to prisons for floor space per prisoner is approximately 36 square feet for communal space and 60 for single cells. Chief Deputy Commissioner for Security Willem Damons reported to parliament's correctional services committee that prison overcrowding was down to 142 percent of capacity in 2008-09 from the 164 percent recorded the previous year.

A 2008 Department of Correctional Services (DCS) study on HIV/AIDS indicated 19.8 percent of sentenced prisoners between the ages of 15 and 49 were HIV-positive. However, NGOs working on HIV/AIDS in prisons believed that the percentage

of HIV-positive prisoners was higher than that of the general population's 25 percent. According to the DCS's annual report, 18 centers dispensing antiretroviral (ARV) therapy were operational during the year.

Corruption remained a problem within prisons, although in most cases correctional services officials were either suspended or fired following an investigation. According to the JIP report, there were 500 complaints of corruption during the annual reporting period out of the 260,268 complaints received. In November 2007 then President Thabo Mbeki ordered the Special Investigating Unit (SIU) to look into allegations of tender abuse in the DCS. In May 2008 SIU briefed the Parliamentary Portfolio Committee on Correctional Services. Investigations, which continued, raised procedural concerns, identified irregularities in 23 contracts, and recommended that 433 officials be penalized. Twenty-six doctors and ten officials were charged with criminal offenses; an additional 433 officials were disciplined. In August 2008 the DCS national commissioner launched an investigation into allegations of malfeasance in tendering for contracts in which funds were allegedly awarded unlawfully to a catering company. On September 17, the SIU delivered its final investigation results to Correctional Services Minister Nosiviwe Mapisa-Nqakula. On December 7, the National Prosecuting Authority (NPA) forwarded the findings to the Serious Economic Offenses Unit of SAPS for further investigation.

Unlike in previous years, there were no reports of abuse at the Lindela Repatriation Center, the country's largest detention facility for undocumented immigrants.

The government operated 13 youth detention facilities. Unlike in previous years, the JIP did not report on any children under the age of 18 being held with adults in order to be close to the courts.

Pretrial detainees generally were held with convicted prisoners.

The government permitted independent monitoring of prison conditions, including visits by human rights organizations to most facilities.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention, and the government generally observed these prohibitions; however, prolonged pretrial detention was a problem, and police arbitrarily arrested demonstrators.

Role of the Police and Security Apparatus.—The SAPS, under the Department of Police, has primary responsibility for internal security. The South African National Defense Force (SANDF), under the Department of Defense, is responsible for external security but also has domestic security responsibilities such as patrolling the borders.

On January 30, the government officially disbanded the NPA's Directorate of Special Operations (DSO), known as "the Scorpions," which had coordinated efforts against organized crime and official corruption. The political opposition and general public criticized the move, charging that it was retaliation for DSO investigations of high-ranking ANC officials, including Jacob Zuma. On July 6, the Scorpions were replaced by the DPCI, also known as "the Hawks."

During the year the ICD received 6,119 complaints against the police, a 5 percent increase from the 5,830 complaints the previous year. Minister of Police Nathi Mthethwa reported to parliament that in 2008-09, a total of 669 officers faced disciplinary hearings, of whom 538 were found guilty. Among the accused, 38 officers were charged with murder, 33 with attempted murder, and 30 with rape. Minister Mthethwa stated that the status of the court cases was unavailable and declined to provide figures for previous years.

To address problems of crime and misconduct, SAPS provided its officers with comprehensive training in corruption prevention, human rights, and ethics and with access to social workers, psychologists, and chaplains to enhance psychological well-being. The ICD investigated reports of police misconduct and crime; during the reporting period, 14 officers were found guilty of murder and sentenced to imprisonment, while four officers were found guilty of culpable homicide and sentenced to imprisonment, suspended sentences, and/or fines.

There were no further actions taken by the 10 task groups commissioned in 2008 by the minister of justice to recommend reforms following a presidentially mandated review of the criminal justice system in August 2008. SAPS continued efforts to professionalize; however, it remained ill equipped, overworked, and poorly trained. Although SAPS made efforts to improve coverage in rural and township areas, most law enforcement activities remained focused on wealthy residential and business areas.

Arrest Procedures and Treatment While in Detention.—The law requires arrest warrants based on sufficient evidence and issued by a magistrate or judge and provides that all detainees be informed promptly of the reasons for their detention, and of their right to remain silent and the consequences of waiving that right. Detainees

must be charged within 48 hours of arrest; held in conditions respecting human dignity; allowed to consult with legal counsel of their choice at every stage of their detention or provided state funded legal counsel when “substantial injustice would otherwise result,” and permitted to communicate with relatives, medical practitioners, and religious counselors. Courts and police generally respected these rights. Detainees must be released (with or without bail) unless the interests of justice require otherwise; however, bail for pretrial detainees often exceeded what suspects could pay. According to the annual JIP report, 8,500 prisoners remained in detention as of March 31 because they were unable to post bail. Some schoolchildren spent more than a year in detention because their families could not post bail.

Human rights groups, judges, and judicial scholars continued to express concern about the Criminal Procedure Second Amendment Act, which mandates minimum jail sentences and prohibits bail in certain cases.

There were cases of arbitrary arrest during the year. For example, on September 26, 40 local tavern owners in Durban ransacked and demolished the offices of Abahlali baseMjondolo (AbM), an organization that advocates for the rights of those who live in informal settlements, also known as the “shack dwellers movement.” The AbM had been fighting the KZN provincial government’s attempts at forcibly removing inhabitants and demolishing the Kennedy Road informal settlement. The mob also demolished the homes of several AbM members, allegedly in the presence of the local police. The attacks lasted for two days, during which time two persons were killed. Police subsequently arrested 13 members of AbM; the 13 were held without charge until December 16, when 12 members were charged with a range of crimes, including property destruction, public violence, and murder. Of these, seven members were released on bail; the additional person was released with all charges dropped. By year’s end bail hearings for the five remaining prisoners had been postponed several times.

Lengthy pretrial detention was a problem. According to the JIP annual report, detainees waited an average of three months, but some as long as two years, before a trial. The report found that 49,477 prisoners were awaiting trial as of March 31, an increase from 48,729 prisoners from the previous year.

Amnesty.—The remains of the three Port Elizabeth Black Civic Organization leaders, known as the Pebco Three, who were murdered by apartheid-era police in 1985 but not discovered until 2007, were finally identified and handed over to the families of the activists for burial. On October 3, during a ceremony attended by President Zuma, the remains of the Pebco 3 were reburied in Port Elizabeth. The 1999 Truth and Reconciliation Commission refused four security police officers amnesty for their involvement in the crime, and they were later found guilty on multiple charges, including murder.

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary, and the government generally respected judicial independence in practice. However, the judiciary was understaffed and underfunded, and there were reports that legal documents used in trials were lost. According to the presidentially mandated criminal justice system working group, made up of ministers and deputy ministers concerned with the judicial process, more than a million of the two million criminal cases reported annually were never resolved. According to the group, a number of problems contributed to the country’s low 10.3 percent conviction rate in criminal cases, including inadequate collection of evidence at crime scenes, insufficient investigation of crimes, long trials, and ineffective court processes. During the year the government operated 58 justice centers that provided legal assistance to the poor to speed the administration of justice, reduce the court rolls, and alleviate overcrowding in prisons. However, serious delays continued to be a problem.

Trial Procedures.—Criminal defendants enjoy a legal presumption of innocence. The bill of rights provides for due process, including the right to a fair public trial within a reasonable time after being charged, and the right to appeal to a higher court. Judges and magistrates hear criminal cases and determine guilt or innocence. In lieu of juries, the law requires that a panel of lay assessors and a magistrate hear cases involving murder, rape, robbery, indecent assault, and assault leading to serious bodily harm. The two assessors may overrule magistrates on questions of fact. Magistrates also can use assessors in an advisory capacity in adjudicating bail applications and sentences. Detainees and defendants have the right to state funded legal counsel when “substantial injustice would otherwise result”; however, a general lack of information for accused persons regarding their rights to legal representation and the government’s inability to pay for these services remained problems. Defendants have the right to be present in court and can question witnesses in court and present their own witnesses and evidence. Defendants have access to government evidence before going to court. There is no automatic right to appeal, but

courts may give defendants permission to do so. For certain cases, such as when the accused is younger than 16 years of age, permission is not required. Additionally, the Criminal Procedures Act provides for an automatic review of all prison sentences longer than three months.

Political Prisoners and Detainees.—The Inkatha Freedom Party (IFP) maintained that 384 IFP members had been imprisoned since 1994 for political reasons. In January 2008 the IFP petitioned both the president and the justice minister for their release. In February 2008 the IFP took the matter to the High Court, where the judge ordered the justice minister to consider all 384 applications for presidential pardons within three months. In April 2008 the IFP sent a letter to Amnesty International complaining that both then president Mbeki and Justice Minister Mabandla had ignored the matter. On September 30, the Constitutional Court ruled that because the petition included the justice minister, the IFP had pursued the incorrect party for legal relief and that the president, not the justice minister, should be held fully accountable for the delay. The same day, the IFP instructed its lawyers to start legal action against President Zuma for the delay in processing the applications; no applications had been processed by year's end.

Civil Judicial Procedures and Remedies.—There is an independent and impartial judiciary in civil matters. There is access to the courts to bring lawsuits seeking damages for, or cessation of, a human rights violation.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and law prohibit such actions. However, there were allegations of police abuse during sweeps and home searches and criticisms of police and judicial procedures, including complaints that warrants were issued despite inadequate evidence.

The law authorizes state monitoring of telecommunications systems, including cellular telephones, the Internet, and e-mail, for criminal investigations. However, opposition parties and many civil society groups opposed such laws. On July 1, the Regulation of Interception of Communications and Provision of Communication-Related Information Act came into effect, requiring all mobile operators, service providers, and cell phone vendors to register on secure databases the identities, physical addresses, and telephone numbers of new and existing customers. All cell phone subscribers were required to show proof of identity and proof of residence in order to be registered.

The Promotion of Access to Information Act allows any person to access information from the government or any other individual for the exercise or protection of any right. Authorities can also use the act to obtain personal information in connection with criminal investigations. Opposition parties and human rights NGOs objected to its broadly defined provision that enables the government to access an individual's personal information.

Farm owners continued to evict workers legally and illegally. An extensive national eviction survey by the NGO Nkuzi Development Association, which provided legal assistance to farm workers, indicated that farm workers were generally unaware of their right to legal counsel during eviction proceedings. In Limpopo, where several hundred evictions took place, Nkuzi had only two attorneys and at times lacked funds for litigation.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution and law provide for freedom of speech and of the press, and the government generally respected these rights. However, several laws remained in effect that posed a potential threat to media independence, and some journalists expressed concern over government involvement in the media sector.

Individuals, organizations, journalists and sectors of civil society were generally able to articulate criticism of the government openly, without fear of reprisals, although some journalists expressed concern that the government heavily influenced and tried to control the media. The practice of appointing journalists to key positions in the media due to their political allegiances remained a problem, particularly within the public broadcaster the South African Broadcasting Corporation (SABC).

According to the South African Advertising Research Foundation, print media reached 46.4 percent of the population. Despite the diversity of publications, the concentration of media ownership in the hands of large media groups limited plurality of opinion within the press.

The majority of citizens received news through radio broadcasts from the government-owned SABC and community radio stations. The SABC was the largest and most influential source of news for the majority of the population. It broadcast television and radio in the country's 11 official languages, with its signal received by an estimated 92 percent of citizens. After allegations surfaced in 2008 of mis-

management, nepotism, and political infighting, the SABC removed senior leaders and the board of directors during the year. On September 17, the National Assembly named 12 new board members, some of whom had already been named to an interim board in July. The nominations received a generally positive reaction from the media and opposition parties.

The SABC's election coverage was initially criticized by opposition parties; however, after the election the coverage was acknowledged to be "largely fair" by the media watchdog Media Monitoring Africa.

During the year an investigation by the Independent Communications Authority of South Africa into the SABC's alleged 2006 blacklisting of certain political commentators from appearing on the SABC's airwaves due to their political affiliations concluded. The committee found it had no jurisdiction over the SABC during the period in question, as the Broadcasting Act guarantees journalistic independence from the SABC, and referred the issue to the SABC board.

Due to alleged mismanagement, the SABC was unable to pay creditors, including independent content production companies, in a timely manner, leading commentators and analysts to predict that the local television industry faced collapse. In response to cost-cutting measures driven by the alleged mismanagement, the SABC proposed to develop content in-house rather than relying on more expensive independent companies. This decision raised questions within civil society about media independence in the country. The SABC sought a government bailout, which raised further concerns regarding the editorial independence of the public broadcaster.

Low-power, nonprofit community radio stations continued to play an important role in informing the mostly rural public; however, they often had difficulty producing adequate content and maintaining staff. Government broadcast regulators regularly issued new community radio licenses and withdrew others for noncompliance with the terms of issuance.

Privately owned E.tv was the second largest channel in the country, and the most viewed English-language channel, with a viewership of 11.9 million, approximately 25 percent of the population. Beginning in June 2008, E.tv's owners, Midi TV, operated a 24-hour news service, E-News Channel.

Government and political officials on occasion reacted sharply to media criticism and accused black journalists of disloyalty and white journalists of racism. Some journalists believed that the government's sensitivity to criticism caused self-censorship in the media.

In the period preceding the April elections, several high-ranking politicians, including the head of the ANC Youth League, made widely reported disparaging remarks about the media, accusing it of being unpatriotic and part of "third force" elements aimed at destabilizing the country. Several opposition parties also accused the SABC of giving disproportionate coverage to the ruling ANC. As a result, the SABC appointed a political coverage liaison to adjudicate complaints.

Several laws enacted during the year impacted press freedom. On August 28, the Films and Publications Act was passed by parliament. The act states that every publication not regulated by the press ombudsman, including online material, must be submitted to the Film and Publications Board for classification prior to publication if the publication contains references to "degrading sexual content, incitement to cause harm, promotion of propaganda for war, incitement of violence or the advocating of hatred based on any identifiable group characteristic." The bill was criticized by media watchdog organizations, as well as individual media commentators, as a possible vehicle for restriction of press freedom.

In addition, a February amendment to the Broadcasting Act allowed for the president to dismiss members of the SABC Board, a move that was widely criticized by opposition parties and the press as undue government interference. Several laws remained in effect that permitted the government to restrict the publication of information about the police, the national defense forces, prisons, and mental institutions. There were no reports that these laws were invoked during the year; however, journalists and media managers considered them a threat to constitutional protections.

The Film and Publications Board reviewed written and graphic materials published in, or imported into, the country. The board had the power to edit or ban books, magazines, movies, and videos, and it regularly exercised that power, mostly regarding pornographic material. Journalists, media houses, and industry associations continued to criticize efforts to extend the board's authority to newspapers and broadcast media.

Internet Freedom.—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in peaceful expression of views via the Internet, including by e-mail. A 2008 World Bank World Development Indicators survey esti-

mated there were 4.5 million Internet users in the country, representing approximately 9 percent of the population. The study reported an increase in access of 12.5 percent since 2007, attributed largely to small businesses.

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

b. Freedom of Peaceful Assembly and Association.—*Freedom of Assembly.*—The constitution and law provide for freedom of assembly; however, police forcibly dispersed several demonstrations during the year, which resulted in injuries.

Several protests over poor delivery of basic services took place across the country, including violent demonstrations in Western Cape, Gauteng, and North West provinces. Police used batons and rubber bullets to control the demonstrations; several injuries were reported.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right.

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

Societal Abuses and Discrimination.—There were occasional reports of desecration and vandalism or verbal or written harassment directed against religious minorities during the year.

On August 31, in Kulis River, a senior manager at the store Mr. Price Home told Shaheeda Groenmeyer, a Muslim employee, to remove her headscarf as she was in violation of the company's uniform policy. The company publicly apologized after Groenmeyer filed a complaint with the Muslim Judicial Council, which insisted that the chain store change its uniform policy.

The Jewish community was estimated at 75,000 to 80,000, although it was contracting due to the emigration of young professionals seeking economic opportunities.

On January 14 at a pro-Palestine rally organized by the Congress of South African Trade Unions (COSATU), then Deputy Foreign Minister Fatima Hajaig stated that "the control of America, just like the control of most Western countries, is in the hands of Jewish money, and if Jewish money controls their country then you cannot expect anything else." Then foreign minister Nkosazana Dlamini-Zuma distanced herself from the comments, and the South African Board of Jewish Deputies filed a complaint against Hajaig at the South African Human Rights Commission. On February 3, Hajaig apologized for her comments; however, the Board of Deputies accused her of giving an insufficient apology that "failed to address, let alone repudiate her anti-Semitic statements" and rejected it. On February 4, Hajaig was summoned to the office of then President Kgalema Motlanthe and later that day gave an apology for her hate speech that was accepted by the Board.

On March 5, at Witwatersrand University, COSATU International Relations Secretary Bongani Masuku made comments that the South African Human Rights Commission (SAHRC) found to be of an "extreme nature" that amounted to hate speech. The SAHRC subsequently launched an investigation. They reported that Masuku appeared to advocate hatred against Jews and Israel and "incited violence based on religion, an area which freedom of expression does not protect." The SAHRC recommended that the matter be resolved through litigation to seek a public apology from Masuku before the Equity Court. Masuku planned to appeal the decision; there were no further developments at year's end.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The government partially cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern. The government's policy prohibited encampment of foreign asylum seekers and refugees in favor of free movement and integration of documented migrants into local communities, with guarantees for the right to work and access to social services. While this generally offered greater liberty to foreigners, many NGOs criticized government protection of foreigners as inadequate.

The law does not prohibit forced exile; however, the government did not use it.

Internally Displaced Persons (IDPs).—Foreign African migrants were displaced during the year following xenophobic attacks. On November 17, a mob chased ap-

proximately 3,000 Zimbabwean migrants out of the town of De Doorns by attacking and destroying the migrants' shacks. Police fired rubber bullets to disperse the mob and arrested 24 persons for public violence. The minister of home affairs sent a delegation to the town to assist those migrants who lost their identification documents during the attack. The migrants set up an informal IDP camp on a local rugby field and remained there at year's end. The attacks were reportedly sparked by competition for seasonal farming jobs, with residents accusing the Zimbabweans of agreeing to work longer hours for less pay. On December 17, Witswatersrand University's Forced Migration Studies Project (FMSP) released a study that indicated that dissatisfied local labor brokers pressured local leaders and residents to chase the Zimbabweans away because they were angered by income losses blamed on Zimbabwean labor brokers.

In May 2008 xenophobic attacks against foreign African migrants and ethnic minorities by South African civilians in townships in Johannesburg escalated into a national wave of violence in which 62 persons were killed in Western Cape, Gauteng, and KZN provinces. Of these, 21 were South African citizens, 11 were Mozambican, five were Zimbabwean, and three were Somali. The remaining 22 bodies were not identifiable. Fifty-three of the killings took place in Gauteng Province. An estimated 670 persons were seriously injured nationwide. The perpetrators blamed the immigrants for job and housing losses and increasing levels of crime. Most attacks were perpetrated by small mobs adopting vigilante tactics, in some cases under the influence of alcohol. Some victims were beaten to death, others were stabbed, and their shacks were looted and burned.

In 2008 the SAHRC stated that it would conduct a thorough inquiry into the xenophobic attacks; however, no investigation had been launched by year's end. The government was widely criticized for its slow response in arresting and prosecuting perpetrators. Field studies by the Institute for Security Studies and FMSP implicated local ward politicians in orchestrating attacks to gain political influence with residents, although no related arrests were made. In March the NPA reported that 1,627 xenophobia suspects were initially arrested, resulting in 469 criminal cases based on the 2008 attacks. Of these, 70 suspects were found guilty, 35 were found not guilty, 208 cases had been withdrawn, and 156 cases were outstanding. NGOs noted that none of the arrests or prosecutions were for murder, but the FMSP reported that one suspect was convicted of murder and sentenced to 15 years in prison. There were no further developments by year's end.

Although the government announced in May 2008 that it would set up special courts to speed the prosecution of the perpetrators of the violence, only the Western Cape created such courts, and significant delays were reported. On September 2, the Equality Court in Cape Town postponed until September 28 a xenophobia compensation claim by 11 foreign-national shopkeepers from Zwelethema township in Worcester. The plaintiffs were seeking financial compensation and an apology from the police for allegedly failing to protect them during the 2008 attacks. There was no further information about the case at year's end.

The estimated 80,000 migrants who were displaced by the violence fled to 72 temporary shelters set up by NGOs and the government in the wake of the attacks. Humanitarian organizations raised concerns that government efforts did not adequately meet the UN Guiding Principles on Internal Displacement.

The provincial governments' threatened closures of the shelter sites throughout July and August 2008 drew criticism from the UN and assistance organizations, which voiced concern that government efforts to encourage host communities to accept foreigners were inadequate. All sites in Gauteng Province were officially closed by October 2008, while the last shelter in Western Cape closed in November 2008. The provincial governments claimed that migrants were safe to return to the townships; however, some attacks continued to occur. Populations at the shelter sites gradually decreased, as some IDPs returned to their countries of origin, while others returned to their former homes or sought safer accommodation in new locations. The 80,000 displaced persons from the 2008 attacks had dispersed or reintegrated by year's end.

Protection of Refugees.—The law provides for the granting of asylum and refugee status in accordance with the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and the government has established a system for providing protection to refugees. The law also provides for a broader definition of refugee status to be granted if a person satisfies the definition in the 1969 Organization of African Unity's (now African Union's) Convention Governing the Specific Aspects of the Refugee Problem in Africa.

In practice the government generally provided protection against the expulsion or return of those recognized as refugees. However, refugee advocacy organizations charged that police and immigration officials abused refugees and asylum seekers

and forcefully repatriated some asylum seekers, particularly Zimbabweans. Applicants for asylum and NGOs assisting refugees also reported that immigration authorities sought bribes from those seeking permits to remain in the country. The Department of Home Affairs (DHA) adopted anticorruption programs and punished officials or contracted security officers found to be accepting bribes.

Following concern about the expulsion or return of refugees and asylum seekers to countries where their lives or freedom would be threatened, the government took steps to address these concerns during the year, which were welcomed by some watchdog organizations. On May 1, the government suspended deportations of Zimbabweans; introduced a 90-day visa-free entry for Zimbabwean nationals and an associated right to work; and proposed a system of longer-term permits, known as special dispensation permits, for Zimbabweans already in the country under the Immigration Act. The proposed permit would allow holders to remain in South Africa for six months and afford the right to education, work, and access to basic health care; however, the permit system had not been implemented by year's end.

Due to the ongoing economic and political problems in neighboring Zimbabwe, the number of Zimbabweans seeking employment in the country continued to increase. While the DHA publicly stated that it did not know how many illegal immigrants were in the country, reports by independent organizations such as UNHCR and Doctors without Borders estimated there were one to three million Zimbabweans in South Africa. DHA struggled to keep up with processing asylum claims.

The government cooperated to some degree with the UNHCR and other humanitarian organizations in assisting recognized refugees and asylum seekers. The government also offered temporary protection to some individuals who may not have qualified as refugees under the 1951 Convention or the 1967 Protocol. According to the DHA Annual Report, 117,436 temporary and permanent residence permits were issued. The report did not indicate how many permits were rejected.

Although the law provides for guaranteed access to basic services, education for refugee children, and access to police and courts, NGOs such as Human Rights Watch found that in practice, asylum seekers, migrants, and refugees faced discrimination at health care facilities and by law enforcement representatives.

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

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

Elections and Political Participation.—On April 22, the country held a largely peaceful, free, and fair national election. The ANC received 65.9 percent of the vote, a decrease from 69.7 percent in 2004, and its parliamentary seats were reduced from 297 to 264 of 400 seats in the National Assembly (the dominant lower chamber of parliament). Parliament then elected ANC President Jacob Zuma as the country's next president. The lead opposition party, the Democratic Alliance (DA), increased its share of the vote to 16.7 percent and its seats to 67. The new ANC breakaway party established in 2008, Congress Of the People (COPE), won 7.4 percent of the vote for 30 seats. The remaining 39 seats in parliament were allocated to 10 other political parties based on election results. In the upper house of parliament, the National Council of Provinces (NCOP), the ANC held 35 seats, DA had 10, and COPE seven seats. The remaining two seats were allocated to the IFP and the Independent Democrats. The NCOP is primarily a reviewing chamber that has the power to send legislation back to the National Assembly for retooling and can vote on legislation affecting the rights of the nine provinces.

There were some reports of irregularities during the elections, including a few instances of violence and one attempted vote rigging.

According to an April 21 newspaper report, statistics released by the government's security sector ministers showed that KZN continued to be the province with the highest number of cases of election-related violence and intimidation. In the six weeks prior to the elections, 162 cases related to election violence were reported, including four killings, four attempted killings, one case of arson, and one case of intimidation with a firearm. Twenty-five cases of intimidation were reported, including 62 in the Northern Cape and 30 in Limpopo.

A report released by the NGO KZN Violence Monitor stated that at least nine killings believed to be politically motivated were reported in KZN since the beginning of the year.

On January 22, ANC stalwart Inkosi Mbongeleni Zondi was shot dead in Umlazi, KZN, while visiting his fiancée. Two IFP members, Makhosabo Mkhize and Siphamandla Mhlongo, were arrested and charged with murder. On July 1, the court granted Mkhize bail but denied it for Mhlongo. The case was adjourned until

July 29; however, on July 28 Makhosabo Mkhize was killed, allegedly by a group of men who attacked him while he was sleeping in his home. No arrests were made; Mhlongo's trial was adjourned until next year.

On April 22 in KZN, Ulundi election official Sindisiwe Mncube was arrested after being caught with illegally marked ballot papers favoring the IFP. On June 26, Mncube was found guilty on five charges of forgery and violating the electoral code and sentenced to five years in prison.

On April 15, ANC member Ndikho Tyawana was found guilty of stabbing former ANC provincial secretary Mcebisi Skwatsha to death at a party meeting in June 2008 and sentenced to eight years in prison, three of them suspended.

In the new administration, women held 14 of 34 ministerial positions, including the ministerial portfolio of foreign affairs, and 11 of 28 deputy ministerial positions. There were 172 women in the 400-seat National Assembly and 19 women among the 54 permanent members of the NCOP. Women occupied two of four parliamentary presiding officer positions, including the deputy speaker of the National Assembly and deputy chair of the NCOP.

There were an estimated 119 members of minorities (nonblack citizens) in the National Assembly. There were 18 minority members among the 54 permanent members of the NCOP. The cabinet included 19 members of minority groups.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. Public officials were subject to financial disclosure laws, and the government continued its efforts to curb corruption; however, corruption remained a problem. The public perception of widespread official corruption, particularly in the police and the DHA, continued despite government assurances that the issue was being addressed. Additionally, public perception of corruption at the local government level increased following President Zuma's declaration that his government would fight to curb corruption among provincial and local government officials. Several officials, including leaders in Gauteng and Northwest provinces, were removed by the government following allegations that they took bribes.

On August 9, North West Province Auditor General Douglas Maphiri and four other officials in his office were suspended following allegations that Maphiri solicited bribes from politicians in the provincial legislature to cover up cases of corruption. An investigation continued at year's end.

The government's anticorruption actions included ongoing investigations into the alleged misconduct of public officials. At least 10 agencies were engaged in anticorruption efforts. Some, like the Public Service Commission, the Office of the Public Prosecutor, and the Office of the Auditor-General, are constitutionally mandated. SAPS had a unit dedicated to anticorruption activities.

On September 17, Finance Minister Pravin Gordhan revealed the Treasury's review of provincial budgets and spending. The task team had identified more than 2,000 officials engaged in improper activity. In November President Zuma signed a proclamation authorizing an SIU investigation into provincial government corruption. The investigation probe alleged widespread financial irregularities in all 24 municipalities in North West Province; the investigation continued at year's end.

The SIU investigated corruption in government departments and identified civil servants alleged to have improperly received state housing subsidies. The government took administrative action to recover these subsidies. On November 27, Minister of Human Settlements Tokyo Sexwale reported that a special SIU team dedicated to investigating housing fraud would investigate 800 officials at the national and provincial level and 123 in local government for corruption. The investigation continued at year's end.

The Office of the Public Protector investigated government abuse and mismanagement and served as the office of last resort for citizens reporting unfair treatment by government entities. The office handled an increasing number of complaints but was hampered by severe resource constraints.

There were no developments in the trial, postponed since 2006, of Bloemfontein's former mayor, Pappie Mokoena, the municipal manager, chief operating officer, and nine other city officials on charges of corruption and fraud. The trial was postponed until early 2010.

The government suspended prosecutions in "Travelgate," the 2004 controversy involving misuse of official funds by parliamentarians and their travel agents. In May 2008 the liquidators of Bathong Travel, the agency at the center of the scandal, announced that the parliamentary probe had been terminated. Opposition parties asked parliament to explain why all civil actions against members of parliament (MPs) were abandoned. Parliament responded that internal parliamentary pro-

ceedings against 11 implicated MPs continued. One of the MPs identified for prosecution, Mnyamezeli Boozi, was later appointed as the ANC's chief whip in the National Assembly. Following the elections, Boozi was appointed chairperson of the Portfolio Committee on Defense and Military Veterans. On September 28, Boozi pleaded guilty and admitted to defrauding parliament of 92,000 rand (\$12,450) worth of travel vouchers. The court fined Boozi 50,000 rand (\$6,765) and gave him a one-year suspended sentence. The DA quickly called for Boozi's removal as an MP, but the ANC refused to recall him, saying Boozi had shown remorse in admitting his guilt and by repaying the money to parliament.

On April 6, prior to the elections, the NPA dropped its investigation into corruption charges against ANC President Jacob Zuma. In December 2007 the NPA had indicted Zuma on 16 counts of racketeering, corruption, money laundering, and fraud. In July 2008 Zuma lost a Constitutional Court appeal to have the warrants used by the DSO to search his properties ruled invalid. In September 2008 High Court Judge Chris Nicholson dismissed the corruption charges against Zuma, ruling that the government had mishandled the case, and that Zuma had been wrongly denied a chance to give his side of the story to investigators before being charged. In his ruling, Nicholson stated he was not convinced that Zuma "was incorrect in averring political meddling in his prosecution," an inference that led the ANC to recall President Mbeki in October 2008. In March the NPA, citing state politicization of the case against Zuma, dropped all charges. The NPA subsequently reorganized, and Zuma became president on May 9 with no pending accusations against him.

The law provides for access to government information; however, the government did not always comply with the law. If a government department refuses to provide information, the requester can launch an internal appeal. If this also fails, the requester may appeal a decision to the High Court, a lengthy process that excludes groups or individuals who cannot afford it. The Open Democracy Advice Center (ODAC) continued to report that many requests for information went unanswered or were answered outside the period provided for in the legislation. However, ODAC's 2007 annual report noted that many requests were unclear or poorly drafted, making a response difficult.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views. Many organizations participated in governmental bodies that gathered information and developed policies related to human rights. Major independent human rights NGOs included Lawyers for Human Rights, the Foundation for Human Rights and the Human Rights Institute of South Africa. International and domestic NGOs and UN agencies spoke out against xenophobic violence in the country during the year and criticized the government's response.

The SAHRC, which was created by the government but operated independently, was responsible for promoting the observance of fundamental human rights at all levels of government and throughout the general population. The SAHRC also has the authority to conduct investigations, issue subpoenas, and hear testimony under oath. SAHRC enjoyed support from the government without interference, and the government reacted positively towards SAHRC reports. During the year the SAHRC issued reports on xenophobia, crime, refugees, human rights, and democracy.

The SAHRC investigated several complaints during the year, including an investigation into hate speech by COSATU International Relations Secretary Bongani Masuku (see section 2.c.).

There were no parliamentary committees that dealt exclusively with human rights; however, certain parliamentary committees looked into human rights issues for their constituencies.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law prohibit discrimination on the grounds of race, disability, ethnic or social origin, color, age, culture, language, sex, pregnancy, sexual orientation, or marital status. However, entrenched attitudes and practices often denied these rights in practice.

Women.—Rape, including spousal rape, is illegal but remained a serious and pervasive problem. The country had one of the highest incidences of rape in the world. According to the 2008-09 SAPS annual report, the number of sexual offenses increased by 12 percent during the year to 71,500 reported cases from 63,818 reported cases in 2008. According to NGOs, rape of elderly women increased. SAPS began recording all sexually related offenses under a single category, as required by

amendments to the Sexual Offences Act (SOA) in 2007. Among other provisions, the amendments also expanded the definition of rape to include all forms of sexual penetration without consent irrespective of gender and broadened definitions of sexual assault against children and persons with mental disabilities.

A June report released by the Medical Research Council found that more than 25 percent of men interviewed in KZN and Eastern Cape Province admitted to committing at least one rape and, of those, more than half admitted to raping more than one person.

A poor security climate and societal attitudes condoning sexual violence against women contributed to the problem. A 2005 study by the Medical Research Council estimated that only one in nine rapes was reported to SAPS, as in most cases the attackers were friends or family members of the victims, who therefore were afraid or reluctant to press charges. This estimate implied that during the year well over half a million women suffered sexual violence. The NGO Treatment Action Campaign reported that one in three South African women would be raped in her lifetime.

Allegations of rape, sexual assault, and sexual harassment of black and foreign female farm workers by farm owners, managers, and other farm workers were common.

In December 2007 parliament passed amendments to the SOA that broadened the physical definitions of rape and indecent assault, included males as victims, and restricted admission of victims' sexual histories as evidence in court in an effort to improve the government's capacity to punish perpetrators and protect victims. Victims' rights groups were critical, however, of the law's conditional provision of postexposure prophylaxis only to victims who filed charges with SAPS or reported the alleged offenses to designated health establishments.

The government operated 42 sexual offenses courts throughout the country that included designated waiting rooms and counseling for victims. During the year the NPA's Sexual Offenses and Community Affairs Unit (SOCA) opened seven and operated 17 Thuthuzela Care Centers (TCC) that specialized in rape care management and streamlined a network of existing investigative, prosecutorial, medical, and psychological services in the hospitals where they were located.

The number of courts for sexual offenses decreased from 64 to 42 during the year. While the NPA made no official statement on the decrease, it did appear to some stakeholders that support for dedicated sexual offenses courts was eroding and that some of the previously dedicated courts were hearing other types of cases. Subsequently, sexual offenses cases took longer to resolve, were harder to track for case managers, and the conviction rate within the sexual offenses courts, which was previously the highest in the country, decreased. The SOCA unit reported a 66.7 percent conviction rate during the year, which was a decrease from previous years, but still higher than the rates reported for other regional courts where convictions in sexual offenses cases averaged less than 50 percent. In their November report to the parliamentary Portfolio Committee on Justice and Constitutional Development, the NPA outlined its desire to increase the number of sexual offenses courts.

Although judges in rape cases generally followed statutory sentencing guidelines, women's advocacy groups criticized judges for using criteria such as the victim's behavior or relationship to the rapist as a basis for imposing lighter sentences. According to a 2008 study by SAPS and the Centre for the Study of Violence and Reconciliation, only 4.1 percent of reported cases resulted in convictions. One in every eight suspects was under the age of 17. In rape cases involving victims under the age of 16, one of every 10 cases resulted in a conviction.

On June 10, seven men were found guilty of the 2005 rape of a woman known as Buyisiwe; the case had been postponed more than 20 times. On September 4, the men were sentenced to between 17 and 20 years' imprisonment each.

Domestic violence was pervasive and included physical, sexual, emotional, and verbal abuse, as well as harassment and stalking by former partners. The Domestic Violence Act of 1998 defines victims of domestic violence (including persons who are not in legal or common-law marriages), facilitates the serving of protection orders on abusers, requires the police to take victims to a place of safety, and allows police to seize firearms at the scene and to arrest abusers without a warrant. Violating a protection order is punishable by a prison sentence of up to five years, or 20 years if additional criminal charges are brought.

According to NGOs, about one in four women were in an abusive relationship, but few reported it. A June report released by the Medical Research Council found that more than two-fifths of men interviewed in KZN and the Eastern Cape Province had been physically violent toward an intimate partner. TCC counselors also alleged that doctors, police officers, and judges often treated abused women poorly.

The government financed 39 shelters for abused women, but more were needed, particularly in rural areas. The government continued to conduct domestic violence awareness campaigns. In honor of August 9 National Women's Day, the government hosted numerous events focused on empowering women in government, health, sports, and the arts.

Prostitution is illegal but was widespread and practiced openly. Women were trafficked to, from, and within the country for exploitation in prostitution. Calls by some government officials to legalize prostitution in advance of the International Federation of Association Football (FIFA) World Cup in 2010 did not gather momentum. In September Cape Town created a vice squad to "clean up" the city's brothels. On October 7, the vice squad arrested 17 suspected sex workers. On October 16, they closed two brothels in Goodwood.

Although the law prohibits sexual harassment, it remained a widespread problem. The government left enforcement primarily to employers, with criminal prosecution a rare secondary step at the initiative of the complainant. The Department of Labor (DOL) issued guidelines to employers on how to handle workplace complaints, which allowed for remuneration of the victim's lost compensation plus interest, additional damages, and legal fees; and dismissal of the perpetrator in some circumstances. Tougher punishments could be generated for assault, which carries a range of penalties depending on the severity of the act, but only if the complainants press charges.

Couples and individuals have the right, and were able in practice, to decide freely and responsibly the number, spacing, and timing of their children, and to have the information and means to do so free from discrimination, coercion, and violence. Contraception was widely available, and women could access it for free at government clinics. According to a 2008 Department of Health report, 94 percent of women had access to prenatal care while 84 percent had access to a skilled attendant at birth, except in the poorest communities where the rate was 68 percent. Women were equally diagnosed and treated for sexually transmitted infections, including HIV.

Discrimination against women remained a serious problem despite their equal rights under the law governing inheritance, divorce, and child custody. Women experienced economic discrimination in areas such as wages, extension of credit, and ownership of land. For example, township housing transfer schemes favored existing titleholders, who tended to be men.

Many rural areas were administered through traditional patrilineal authorities, such as a chief or a council of elders, who did not grant land tenure to women, a precondition for access to housing subsidies. A constitutional court ruling in June 2008 upholding a tribe's decision to allow Tinyiko Shilubana to succeed her father as chief was criticized by traditional authorities who said the verdict contravened African custom.

Women, particularly black women, typically had lower incomes and less job security than men. Most women were engaged in poorly paid domestic labor and microenterprises, which did not provide job security or benefits. The Department of Trade and Industry provided incentive grants to promote the development of small and medium-size businesses and microenterprises for women, young persons, and persons with disabilities.

According to the Businesswomen's Association's annual census, the number of women in top leadership positions remained constant. Women held only 18.6 percent of executive-level and 14.6 percent of director-level positions. The government's Labor Force Survey published in July indicated unemployment among women was higher than among men, at 25.7 percent versus 21.8 percent.

Female farm workers often experienced discrimination, and their access to housing often was dependent on their relationship to male farm workers. Female farm workers on maternity leave who could not obtain timely compensation via the Unemployment Insurance Fund often had no choice but to return to work shortly after giving birth, according to NGOs working with farm workers in Limpopo Province.

A number of governmental bodies, particularly the Gender Commission and the presidential Office of the Status of Women, and numerous NGOs monitored and promoted women's rights.

Children.—The government was generally committed to children's rights and welfare. The law provides for citizenship by birth, descent, and naturalization. However, registration of births was inconsistent, especially in remote rural areas or among parents who were foreign nationals and themselves unregistered. This resulted in lack of access for children to public services such as education, health care, and financial grants. According to Social Development Minister Edna Molewa, more than nine million children were receiving social welfare grants. The government's 2008 budget extended child support grants from age 14 to 15; however, it was some-

times difficult for children, particularly those in rural areas or without documentation, to obtain access to health care facilities and other programs.

The law provides for access to education for disadvantaged children, traditionally black children, through a uniform system for the organization, governance, and funding of schools. It mandates compulsory education from ages seven to 15 and ensures that children cannot be refused admission to public schools due to a lack of funds. However, public education is fee based and the government does not fully subsidize education. Even when children qualified for fee exemptions, low-income parents had difficulty paying for uniforms, books, and supplies. Some children, therefore, were enrolled in school but did not attend.

According to the 2007 Education Statistics Report by the Department of Education, 91 percent of grade 1-12 school age children were enrolled in school. Those not enrolled tended to be children with special needs. Most children attended school until the age of 15, when eligibility for the Child Support Grant ends. There were an equal number of boys and girls in grades 1-12, with boys slightly outnumbering girls in primary school (grades 1-7), but 3 to 4 percent more girls than boys were in secondary school (grades 8-12).

There continued to be reports of rape, sexual abuse, sexual harassment, and assaults of girls at school by teachers, students, and other persons in the school community. The law requires schools to disclose sexual abuse to the authorities; however, administrators often concealed sexual violence or delayed disciplinary action. The level of sexual violence in schools also increased the risk for girls of contracting HIV/AIDS or other sexually transmitted diseases, as well as unwanted pregnancies.

Although the law prohibits corporal punishment in schools, there were reports that teachers used physical violence to discipline students. Student-on-student violence, including racially motivated violence, continued to be a major concern of educational authorities and parents. Teacher organizations, parents, and police worked together in the "Safe Schools Program" to address these problems. Many schools implemented "Adopt-a-Cop" programs inviting SAPS officers into their schools for training and security.

HIV/AIDS remained one of the leading causes of death among women and children, accounting for 20 percent of maternal deaths and 40 percent of deaths of children under age five. HIV/AIDS activists, physicians, and opposition parties continued to criticize the government for failing to provide antiretroviral (ARV) therapy to all pregnant and breastfeeding women and thereby protect young children from HIV/AIDS transmission. To reduce maternal and infant mortality rates and HIV transmission from mother to newborn to a stated goal of less than 5 percent by 2011, the government worked with experts and the World Health Organization to revise the 2008 Prevention of Mother to Child Transmission guidelines to provide enhanced regimens of ARV therapy to pregnant women, as well as postnatal prophylaxis and early treatment for at risk or HIV-infected infants.

Violence against children, including domestic violence and sexual abuse, remained widespread. While there was increased attention to the problem, a lack of coordinated and comprehensive strategies to deal with violent crimes continued to impede the delivery of needed services to young victims. According to the 2008-09 SAPS report, 20,141 children were victims of all sexual offenses between April and December 2007, 843 were killed, and 12,422 were assaulted with intention to do grievous bodily harm. Observers believed that these figures represented a small percentage of the actual incidence of child rape since most cases involving family members were not reported. According to the NGO Childline, girls have a one-in-four risk, and boys a one-in-five risk, of being raped before age 16. According to a June report released by Solidarity, the country's largest independent trade union, 45 percent of all rapes were perpetrated against children, a child was raped every three minutes, and more than 88 percent of child rapes were never reported to the police.

The country had a low conviction rate for rape and child abuse. The law states that no child under the age of 12 can consent to any sexual activity and sets 16 as the lowest age for consensual sex with another minor. Statutory rape is defined as sexual intercourse between anyone under 18 and an adult more than two years older. The statutory sentence for rape of a child is life in prison; however, the law grants judges discretion to issue more lenient sentences. The traditional practice of "ukuthewala," the forced marriage of girls as young as 12 to adult men, continued in remote villages in the Eastern Cape.

Penalties for child prostitution include fines and imprisonment of up to 20 years. The country was a destination for child sex tourism. The law prohibits child pornography and provides for penalties including fines and imprisonment up to six years. The Film and Publication Board ran a web site during the year to enable the public to report incidences of child pornography.

The high incidence of HIV/AIDS resulted in an increase in the number of child-headed households. These children sometimes turned to prostitution to support themselves and their siblings. Other children were trafficked and forced into prostitution. NGOs provided shelter and medical and legal assistance for children in prostitution and a hotline for victims of child abuse.

AIDS activists alleged that children in prostitution were often highly sought after because of the widely held belief that sex with a virgin provided a cure for HIV/AIDS. SAPS officials, however, stated that under questioning perpetrators usually admitted they knew this claim was false.

Despite outreach programs to discourage the practice, ritual circumcision of males, including children, usually by medically unqualified practitioners, was still a prevalent initiation tradition in several provinces. Circumcision was considered a precondition for adult status, which permits marriage, inheritance, and other societal privileges. The House of Traditional Leaders attempted to address unsafe initiation practices and designed strategies to prevent deaths and the spread of diseases, such as HIV/AIDS. However, discussing the practice was taboo in many communities where it was considered a matter for chiefs to decide. Some traditional leaders spoke out against government interference in initiation and circumcision practices.

The Department of Health in the Eastern Cape provided surgeons, health officials, and vehicles during the June initiation season to monitor initiation practices. Nonetheless, 52 circumcision-related deaths, more than double the total in the previous year, and several penis amputations at the hands of unmonitored practitioners were reported in the Eastern Cape during the June initiation period, according to press reports. Twenty-six boys died in the Eastern Cape during December, the first month of the summer initiation period. From 2001 through 2007, the Eastern Cape recorded nearly 2,600 hospital admissions, 156 genital mutilations or amputations, and 232 deaths due to dehydration and infection from unsafe and unsterile procedures. Two boys died in Limpopo Province as a result of botched circumcisions. Eleven illegal traditional surgeons were arrested and charged with culpable homicide and illegal circumcision during the winter circumcision season.

Trafficking in Persons.—The law does not prohibit trafficking in persons for all purposes, and there were reports that persons were trafficked to, from, through, and within the country. The government is limited to the use of piecemeal provisions of various laws to prosecute traffickers. The Prevention of Organized Crime Act of 1998 can be applied to trafficking, as can specific laws against child labor and forced labor. The SOA makes interim provisions outlawing trafficking for purposes of sexual exploitation, in addition to creating new or expanded statutory offenses applicable to all forms of sexual violation of children and the mentally disabled and provisions for prosecutions of extraterritorial sexual exploitation. The 2005 Children's Act prohibits "the recruitment, sale, supply, transportation, transfer, harboring or receipt of children, within or across the borders of the Republic." The law also prohibits the commercial sexual exploitation of children, sexual intercourse with children under 16, or permitting a female under 16 to stay in a brothel for the purpose of prostitution. The maximum penalty for violations of the law is 20 years in prison. The Children's Amendment Act of 2007 addresses unlawful child labor in extreme forms such as slavery and commercial sexual exploitation; however, the act was not fully implemented.

The country was a source, transit point, and destination for the trafficking of persons, including children, from other countries in Africa, Asia, and Europe for prostitution and forced labor. Domestic and international organized crime syndicates trafficked women in and out of the country for use in the sex industry, and girls were exploited for sex or domestic servitude. Young men were trafficked internally and across borders chiefly for agricultural work, but also for street vending, crime, begging, and prostitution.

The precise extent of trafficking operations was unknown, but a substantial number of persons were believed to be trafficked annually both internally and across borders. Of the 306 total victims directly assisted by the International Organization for Migration (IOM) from 2004 through December, most were Thai (153), Congolese (36), Zimbabwean (29), South African (25), Mozambican (20), Indian (12), and Chinese (11). From 2005 through November, IOM assisted 57 child victims of trafficking, almost half of whom were from the Democratic Republic of Congo.

Trafficked women and children forced to work in the commercial sex industry often lived with other trafficked victims in segregated areas. They were frequently under constant surveillance; usually had no money or identifying documents; were often in debt to the agents who arranged their travel; often worked long hours—in some cases up to 18 hours each day and on weekends and when ill; and sometimes were fined by their traffickers for infractions of arbitrary rules. Young men

trafficked for forced agricultural labor, were often subjected to violence and food rationing.

Children were especially vulnerable to trafficking for sexual and labor purposes and remained relatively unprotected from exploitation. The trafficking of Mozambican, Malawian, and Zimbabwean children for agricultural labor resulted in the children's deportation as illegal aliens without appropriate protections. The government began to address the growing problem of child sex tourism, for which girls and boys were trafficked internally and across borders. For example, in conjunction with the June FIFA Confederations Cup and in advance of the 2010 FIFA World Cup, provincial governments developed action plans and mobilized antitrafficking teams to protect children. The government issued guidelines on how to identify at-risk children and police were trained to identify suspicious activity.

According to the NPA, which leads government efforts to combat trafficking, Chinese traffickers made Johannesburg a regional hub for collecting victims from Lesotho, Mozambique, and Swaziland for exploitation locally and in other cities. Trafficking from neighboring Angola, the Democratic Republic of Congo, and Zimbabwe was believed by law enforcement officials to be on the rise. Nigerian syndicates reportedly began moving trafficked women to the United States where they were exploited to attract African migrant clientele. The flow of trafficked Thai women to South Africa appeared to decrease during the year, potentially due to pressure by law enforcement. According to law enforcement officials, new brothels proliferated near football stadiums in advance of the 2010 FIFA World Cup. Many of the new venues undertook recruitment drives, for both willing sex workers and trafficking victims.

In most cases traffickers lured foreign women with phony promises of employment, marriage, or educational opportunities abroad. Traffickers often lured the children of poor families with fraudulent promises of jobs, education, or a better way of life. Victims, who might have been kidnapped or forced to follow their traffickers, were subjected to threats of violence, withholding of documents, and debt bondage to ensure compliance.

Although the country had 42 sexual offenses courts with authority to handle trafficking cases, the lack of clear and complete antitrafficking legislation inhibited prosecutions. However, the amended SOA provides some specific protections to trafficking victims by stipulating that victims cannot be charged with crimes, such as immigration violations or prostitution, which are the direct result of their having been trafficked. Following awareness and sensitivity training conducted by the UN Office on Drugs and Crime, IOM, and others, police treatment of trafficking victims improved. However, extensive pretrial delays caused some trafficking victims not to testify at the trials of their alleged traffickers.

On March 24, after a month-long investigation by a newly formed provincial task team comprising members of the organized crime unit, the NPA, and child prostitution experts, police arrested several businessmen linked to a child prostitution ring in Durban. The businessmen were charged under the human trafficking and child pornography provisions of the SOA. The investigation into the prostitution ring and the case were pending at year's end.

On November 26, Giang Broodryk, a Thai citizen, was arrested for allegedly assisting girls from Thailand to enter the country illegally. She was denied bail by the Rustenburg Magistrate's Court. Broodryk allegedly promised the girls employment in her massage parlor but then forced them to work as prostitutes in her brothel; the case was pending at year's end.

According to the IOM, the prosecution concluded argument during the year in the trial of Mozambican Aldina dos Santos, which began in 2008. There were no further developments at year's end.

There were no developments in the 2008 alleged trafficking cases involving a Sierra Leonean child trafficker in Durban and five Nigerian traffickers of Nigerian women.

Corruption within the police, immigration, customs, and private services at the international airports impeded interdiction efforts. Traffickers reportedly bribed officials to help them move victims out of transit areas to avoid detection. The DHA dismissed immigration officers for involvement in trafficking and for petty corruption relating to trafficking. The border police, SAPS, and judicial officials received additional antitrafficking training during the year, but confusion by officials between smuggling and trafficking remained a problem.

The NPA's SOCA unit leads an interagency task force to formulate new strategies for dealing comprehensively with trafficking in persons. The NPA subcontracted IOM to conduct training workshops for hundreds of social workers and government officials to improve recognition of trafficking victims, care and attention to victims,

and referrals of cases to authorities. The government commissioned the Human Sciences Research Council to research the scale and nature of trafficking.

In conjunction with the June FIFA Confederations Cup, local governments established Provincial Joint Operation Command Centers staffed by NGOs, youth workers, and police. The centers reported to the National Joint Operation Command Center to protect and assist children at risk of becoming trafficking victims. The government also mobilized antitrafficking teams of police, issued guidelines on how to identify children being recruited for trafficking, and trained police to identify suspicious activity.

The NPA maintained a witness protection unit headed by a special director of public prosecutions, but it relied heavily on NGOs to provide witness protection for trafficking victims. Some domestic victims of trafficking were placed in government facilities for the sexually abused. The government continued to fund private shelters that provided short- and long-term health care, counseling, and legal support to trafficking victims.

Persons With Disabilities.—The law prohibits discrimination on the basis of both physical and mental disability; however, government and private sector discrimination in employment existed. The law mandates access to buildings for persons with disabilities, but such regulations were rarely enforced, and public awareness of them remained minimal. General responsibility for the rights of persons with disabilities fell within the Department of Health, with individual NGOs advocating for the rights of persons with specific disabilities such as blindness.

The law provides persons with disabilities protection from harassment and, in conjunction with the Employment Equity Act, also provides guidelines on the recruitment and selection of persons with disabilities, reasonable accommodation for persons with disabilities, and guidelines on proper handling of employee medical information. Enforcement of this law was limited. The law also requires employers with more than 50 workers to create an affirmative action plan with provisions for achieving employment equity for persons with disabilities. Persons with disabilities constituted 3.4 percent of the general population, but only an estimated 0.02 percent of the public service workforce. The law does not allow persons with mental disabilities to vote.

National/Racial/Ethnic Minorities.—Although not as pervasive as in the previous year, xenophobic attacks on foreign African migrants and ethnic minorities occurred and sometimes resulted in displacement (see section 2.d.). Civil society organizations criticized the government for failing to address the root causes of the violence, provide opportunities for conflict resolution in affected communities, or undertake investigations and prosecutions on a scale necessary to deter additional attacks.

On May 24, a mob in Darling set fire to a shop belonging to Omar Josef and Hazim Amad, both Somalis. Josef and Amad were killed in the fire; an investigation continued at year's end.

On June 6, several taxi drivers beat a refugee near the Nyanga Refugee Reception Center and ripped his clothes off. No further action was taken in the case.

On June 15, Angolan refugee Sebastian Santana was stabbed to death by an unidentified man on a bridge near the Nyanga Refugee Reception Center when he resisted an attempted robbery. Angolan refugee leader Joao Nascimento told a local newspaper that Santana was on his way to the center to renew his papers when he was approached by the man and told to go back to his country. Police opened an investigation into the killing; there were no new developments by year's end.

On June 22, hundreds of Franschoek residents stoned Somali-owned businesses over disputed food prices. Four foreign-owned shops were damaged and one Somali businessman was injured during the attack. The police dispersed the crowd with rubber bullets. Three men were charged with public violence, and an investigation continued at year's end. Police reported that they increased patrols in the area.

On December 7, residents of the Westernburg Township outside Polokwane attacked Zimbabwean nationals with sticks, knives, and stones. Six men were seriously injured. Residents blamed Zimbabweans for a spate of robberies, murders, and rapes in the township. More than 200 persons sought shelter at the Peter Mokoba Stadium under heavy police guard. Police arrested 12 suspects for public violence and assault; there were no further developments by year's end. All of the displaced persons returned home or found other housing by year's end.

The law requires employers with 50 or more employees to ensure that previously disadvantaged groups, legally defined as "Blacks" (including "Africans," "Colored," and "Asians" and collectively constituting more than 90 percent of the country's population) are represented adequately at all levels of the workforce. Notwithstanding the country's antidiscrimination legislation, however, the DOL 2007 Employment Equity Analysis reported that Blacks remained underrepresented, particularly at

the professional and managerial levels. According to the report, Blacks held only 22.2 percent of top management positions and approximately 36.5 percent of professional positions. Black women remained by far the most disadvantaged group in number and quality of management or skilled jobs. Employers cited a lack of training and development, poor recruitment processes, and an antagonistic corporate culture as the main impediments to affirmative action.

In June 2008 the Pretoria High Court ruled in favor of the Chinese Association of South Africa's petition that ethnically Chinese South African citizens be defined as Black in legislation benefiting previously disadvantaged groups such as the Broad-Based Economic Empowerment Act and the Employment Equity Act.

The continued killings of mostly white farm owners by black assailants created concern among white farmers that they were being targeted for racial and political reasons, although studies showed perpetrators were generally common criminals motivated by financial gain. There also were reports that white employers abused and killed black farm laborers and complaints that white employers received preferential treatment from the authorities.

Indigenous People.—The NGO Working Group of Indigenous Minorities in Southern Africa estimated that there were approximately 6,000 indigenous San in the country, some of whom worked as farmers or as farm laborers. In the late 1990s, the Khomani, one of the last surviving San communities, reclaimed most of their land rights by lodging a claim with the Commission for the Restitution of Land Rights. By law the San have the same political and economic rights as other citizens; however, the government did not always effectively protect those rights or deliver basic services to the San communities. Their participation was limited due to fewer opportunities, minimal access to education, and relative isolation.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The post-apartheid constitution outlaws discrimination based on sexual orientation, and in 2006 the country legalized same-sex marriage. There were no reports of official mistreatment or discrimination. However, in its annual Social Attitudes Survey released in November 2008, the Human Sciences Research Council found widespread public intolerance of homosexuality activity, which was commonly labeled “un-African,” with 80 percent of respondents believing sex between two same-gender persons was “wrong.”

Rights groups reported that the LGBT community was subject to societal abuses including hate crimes, gender violence targeting lesbians, and killings. The NGO People Opposed to Women Abuse reported that attacks increased during the year and estimated that a lesbian was killed every three months in the country's townships. On September 22, Themba Mvubu was sentenced to life in prison for the April 2008 gang rape, robbery and murder of Eudy Simelane, a former player on the national women's soccer team and well-known lesbian activist. Khumbulani Magagula and Johannes Mahlangu, who were arrested with Mvuba, were acquitted based on testimony that the two were present but did not participate. The fourth accused, Thato Mphiti, was sentenced on February 13 to 32 years in prison for murder, robbery, and being an accomplice to rape.

The trial of seven men accused of the 2006 murder of Zoliswa Nkonyana, a lesbian, in Cape Town, was postponed several times during the year; there were no further developments.

Other Societal Discrimination.—With availability of life-saving ARV treatments, civil society activities such as the Treatment Action Campaign, and government campaigns to reduce discrimination against persons with HIV/AIDS, the social stigma associated with HIV/AIDS began to decline but remained a general problem.

In May 2008 the Constitutional Court ruled that SANDF must conduct individualized health assessments of members of the armed forces and SANDF could not exclude HIV-positive persons from recruitment, external deployments, or promotions.

Section 7. Worker Rights

a. The Right of Association.—The law allows all workers with the exception of members of the National Intelligence Agency and the Secret Service to form and join unions of their choice without previous authorization or excessive requirements, and these laws were applied. The two unions in the military are governed by provisions in the National Defence Bill that state that the unions cannot affiliate with any of the existing union federations and that they do not have the right to strike. A labor court and labor appeals court enforced the right of association. As of March trade union membership was estimated at three million, or approximately 35 percent of the population employed in the formal sector.

Labor laws extend to farm workers. The National African Farmers' Union received no complaints of harassment of union representatives. The DOL and unions

enlisted the cooperation of AgriSA, the national farmers' organization, to educate farmers about workers' rights and to improve working conditions. According to Cosatu's 2006 report, only 10 percent of the workers in the agricultural labor force were unionized.

The law provides for the right to strike, and workers exercised this right; however, workers considered to be providing essential services were prohibited from striking. Essential services were those deemed vital to the public's safety or health, such as police and military, prison wardens, firefighters, emergency health workers and maintenance workers providing critical services. Disputes between workers in essential services and their employers that are not resolved through collective bargaining, independent mediation, or conciliation are referred to arbitration or the labor courts.

Police occasionally used excessive force that resulted in injury against protesters during the year, particularly during the April to August period of wage negotiations for civil servants and subsequent strikes. On August 13, police used rubber bullets and tear gas to disperse a strike by municipal street cleaners and garbage collectors, who are barred from striking under the law, over a wage dispute.

On August 26, in Pretoria, a wage protest by the South African Security Force Union and the South African National Defense Union turned violent as 3,000 soldiers, who were union members but barred from striking under the law, attempted to gain access to the Union Buildings, the official seat of the government, to demand a 30 percent wage increase. Protesters armed with rocks, bottles, and petrol bombs hurled them at police and bystanders. Police attempted to disperse the protesters with rubber bullets and tear gas. The government subsequently launched a review of the soldiers' right to strike, and a decision was pending at year's end.

Some workers were dismissed for participating in strikes during the year. On February 2, the Police and Prisons Civil Rights Union reported that 60 percent of the Johannesburg Metro Police went on strike regarding the Occupational Specific Dispensation wage negotiations, a 2007 wage and promotion package signed with the government but only partially implemented in during the year following mass actions by public sector workers. The union reported that some workers were dismissed for participating in an illegal strike.

b. The Right to Organize and Bargain Collectively.—The law allows unions to conduct their activities without interference. The government protected these rights, and workers exercised them. Collective bargaining is protected by law. The law prohibits employers from discriminating against employees or applicants due to past, present, or potential union membership or participation in lawful union activities. There were no lawsuits filed for antiunion discrimination.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred. Women and children were trafficked for prostitution, and domestic servitude. Young men were trafficked for forced labor in the agricultural sector (see section 6).

d. Prohibition of Child Labor and Minimum Age for Employment.—Child labor is prohibited by law. However, child labor was widespread in informal and agricultural sectors, particularly in the former homeland areas. The law prohibits employment of a child less than 15 years of age. Children over 15 but under 18 are also prohibited from work that places at risk the child's wellbeing, education, physical or mental health, or spiritual, moral, or social development. The government generally enforced child labor laws in the formal sectors of the economy. Underage children were allowed to work in the performing arts if their employer received DOL permission and agreed to follow specific guidelines.

The HIV/AIDS epidemic contributed to the number of households headed by children who supported themselves and often younger siblings. However, in its 2007-08 Child Gauge Report, the Children's Institute at the University of Cape Town stated that there was little evidence of recent rapid growth in the orphan population due to HIV/AIDS. The South African Institute of Race Relations, a research and policy organization, reported that child-headed households accounted for 0.5 percent of all households, or approximately 148,000 households in 2007. The Children's Institute noted that the levels had remained relatively stable since the General Household Survey began in 2002.

Child labor was almost nonexistent in the formal and developed sectors of the economy. In the informal sector, children were engaged in the worst forms of child labor; reports indicated that these practices were most common in the sex trade industry, followed by the domestic sector. Children worked in subsistence and commercial farms and family business, particularly in former homeland areas. Many

children in rural areas carried water for their families for excessive hours under physically demanding conditions. Some children were exploited by adults and forced to commit robberies, including armed robbery, and sell drugs. Children were trafficked within the country for the purposes of commercial sexual exploitation, domestic servitude, forced street vending, begging, crime, and agriculture, and for “muthi” (the removal of their organs for traditional medicine). Local criminal rings and street gangs organized child prostitution.

The DOL attempted to employ an estimated 1,000 labor inspectors to investigate reports of violations of child labor and trafficking and to submit any evidence to the SAPS. However, due to a shortage of skilled labor in the country, the DOL reported it was not always able to meet the goal and exact figures were unavailable. Violation of laws regulating child employment is punishable by a maximum prison sentence of three years or a fine of 15,000 rand (\$2,030). In some cases DOL inspectors opted to resolve child labor cases by counseling of employers, parents, and children, or by enlisting the services of professionals in the welfare and education departments. There were reports that inspectors had difficulty gaining access to farms where child labor was reported.

The government’s Child Labor Program of Action integrated the priorities of government ministries to combat child labor with a variety of government financial support mechanisms. However, the single largest factor in reducing child labor remained the government’s 250 rand (\$34) per month Child Support Grant to primary care givers of children under the age of 15.

e. Acceptable Conditions of Work.—There was no legally mandated national minimum wage, although the law gives the DOL authority to set wages by sector. Minimum wages were established for the retail sector, farm laborers, domestic workers, and taxi (minibus) drivers. The minimum wage for farm workers was approximately 6.31 rand (\$.85) per hour. The minimum hourly wages for domestic workers employed more than 27 hours per week ranged from 4.85 rand (\$.65) to 7.06 rand (\$.95). Depending on the province, compliance with the minimum wage rate generally ranged from 65 to 90 percent, according to 2007 DOL figures. Minimum wages did not provide a decent standard of living for a worker and family; the government undertook other actions to alleviate poverty, including annual above inflation mandatory wage increases for farm workers, exemptions from school fees, and improved access to health care.

Annual negotiations between employers and employee associations or unions set wage rates on an industry or plant basis for unionized workers in the formal economy. Wage negotiations for civil servants resulted in numerous strikes during the year. Most unions demanded wage increases to compensate for rising inflation and price hikes. Local government employees received a 13 percent increase and national and provincial public servants received a 12 percent increase, which was above the August inflation rate. Such negotiated wages were generally sufficient to provide a decent standard of living for a worker and family; however, this was not the case in sectors where workers were not organized sufficiently to engage in collective bargaining. As a result, many unskilled or rural workers were unable to provide an adequate standard of living for themselves and their families. Following the April elections, the Ministry of Rural Development and Land Reform was established to assist with poverty and unemployment alleviation in rural areas.

The law establishes a 45-hour workweek, standardizes time-and-a-half pay for overtime, and authorizes four months of maternity leave for women. No employer may require or permit an employee to work overtime except by agreement, and overtime may not be more than 10 hours a week. The law stipulates rest periods of 12 consecutive hours daily and 36 hours weekly, which must include Sunday. The law allows for adjustments to rest periods by mutual agreement. These standards were effectively enforced in the formal sector, as labor unions and labor courts focused on compliance. A ministerial determination exempted businesses employing fewer than 10 persons from certain provisions of the law concerning overtime and leave. Farmers and other employers could apply for variations from the law by showing good cause.

The law protects both foreigners and immigrant workers. On May 1, the government suspended deportations of Zimbabweans, introduced a 90-day visa-free entry for Zimbabwean nationals and an associated right to work, and proposed longer-term permits for Zimbabweans already in the country under the Immigration Act; however, the new permit had not been implemented by year’s end. In March 2008 the Commission for Conciliation, Mediation, and Arbitration (CCMA) ruled in favor of a foreign employee whose employment contract had been terminated by Discovery Health Limited when the employee’s temporary work permit expired. The CCMA’s ruling established that foreign workers are included and protected by the Labor Reform Act.

The government set occupational health and safety standards through the Department of Minerals and Energy (DME) for the mining industry and through the DOL for all other industries. Occupational health and safety issues were a top priority of trade unions, especially in the mining, construction, and heavy manufacturing industries where processes were dangerous and sometimes deadly. The law provides for the right of mine employees to remove themselves from work deemed dangerous to health or safety. The law prohibits discrimination against an employee who asserts a right granted by the law, and requires mine owners to file annual reports providing statistics on health and safety incidents for each mine. In addition, a tripartite mine health and safety council and an inspectorate of mine health and safety were responsible for enforcing the law and monitoring compliance with its provisions.

The 2008 DME Presidential Mine Audit reported 220 mining deaths in 2007; the mines subsequently underwent a DME compliance inspection. In November 2008 parliament passed amendments to the Mine Health and Safety Act, making employers liable for heavy fines or imprisonment for serious injury, illness, or death of employees due to unsafe mine conditions. The amendments provide for mine inspectors to enter any mine at any time to interview employees and audit records.

Outside the mining industry, there were no laws or regulations that permitted workers to remove themselves from work situations deemed dangerous to their health or safety without risking loss of employment; however, the law provides that employers may not retaliate against employees who disclose dangerous workplace conditions.

While labor conditions improved on large commercial farms, they remained harsh, especially for small holdings' workers, most of whom were black. Many owners of small farms did not measure working hours accurately. Twelve-hour days were common during harvest time, and few farmers provided overtime benefits. In February 2007 Human Rights Watch reported low wages, a lack of basic services in farm workers' housing, and inadequate education for workers' dependents. Farm owners continued to evict workers legally and illegally. There was a lack of compliance with labor legislation and significant violence and crime against farm workers and farm owners. Health and safety regulations often were not observed when chemicals were used in agricultural work.

SUDAN

Sudan, a republic with an estimated population of 40 million, is governed according to a power-sharing arrangement established by the 2005 Comprehensive Peace Agreement (CPA), which ended the 22-year civil war between the north and south and established an interim Government of National Unity (GNU). The CPA calls for national elections to be held in 2009; however, elections did not occur during the year. The GNU is composed of the National Congress Party (NCP), dominated by Islamists from the north and ruled by authoritarian President Omar Hassan al-Bashir and his inner circle, and the Sudan People's Liberation Movement (SPLM), the political wing of the Sudan People's Liberation Army (SPLA) led predominantly by Christians and practitioners of traditional indigenous religions from the south. The most recent national elections were held in 2000; Bashir was reelected, and his political party won 340 out of 360 seats in the parliament in deeply flawed elections boycotted by all major opposition parties. The SPLM is the ruling party of the semi-autonomous Government of Southern Sudan (GOSS), established in 2005. The GOSS ratified a separate constitution in 2005. A referendum to determine whether the south will become an independent entity is scheduled for 2011. The country experienced several violent conflicts during the year. While civilian authorities in the north generally maintained effective control of the security forces and government-aligned militia outside of Darfur, there were frequent instances in which elements of the security forces and government-aligned militia acted independently in Darfur. In the south, civilian authorities generally maintained effective control of security forces, but there were frequent instances in which elements of the security forces acted independently.

Conflict and human rights abuses in Darfur continued despite the 2006 Darfur Peace Agreement (DPA) between the government and Minni Minawi's faction of the Sudan Liberation Movement/Army. Civilians in Darfur continued to suffer from the consequences of genocide. Government forces and government-aligned militia continued to kill civilians; the government continued to bomb civilian areas. Women and girls experienced continued gender-based violence. The government supported Chadian rebel groups. Darfur rebel groups committed serious abuses. According to the

UN nearly 2.7 million civilians have been internally displaced, and over 250,000 refugees have fled to neighboring Chad since the conflict in Darfur began in 2003. The UN estimated in 2006 that 200,000 persons had died as a result of the conflict, and that by 2008 up to 100,000 more may have died.

On March 4, the International Criminal Court (ICC) issued an arrest warrant for President Bashir as an indirect perpetrator or as an indirect coperpetrator of five counts of crimes against humanity—murder, extermination, forcible transfer, torture, and rape—and two counts of war crimes—intentionally directing attacks against a civilian population as such or against individual civilians not taking part in hostilities, and pillaging in Darfur between March 2003 and July 2008. Following the announcement, the government expelled 13 humanitarian nongovernmental organizations (NGOs) from the country. The government also shut down three Sudanese NGOs in March. The expulsions and closures decreased the provision of humanitarian and development assistance, particularly in Darfur and the Three Areas (Abyei, Blue Nile, and Southern Kordofan).

Interethnic fighting and attacks by the Lord's Resistance Army (LRA) resulted in an estimated 2,500 deaths and the displacement of 359,000 persons during the year in the south. Tensions over CPA implementation persisted between the north and the south. Fighting between Sudanese Armed Forces (SAF) and SPLA members in Malakal resulted in civilian deaths.

The following human rights abuses occurred: abridgement of citizens' right to change their government; extrajudicial and other unlawful killings by government forces and other government-aligned groups throughout the country; torture, beatings, rape, and other cruel, inhumane treatment or punishment by security forces; harsh prison conditions; arbitrary arrest and detention, incommunicado detention of suspected government opponents, and prolonged pretrial detention; executive interference with the judiciary and denial of due process; obstruction of the delivery of humanitarian assistance and the expulsion of humanitarian NGOs; restrictions on privacy; restrictions on freedom of speech; restrictions on the press, including direct censorship; restrictions on freedoms of assembly, association, religion, and movement; harassment of IDPs; harassment and closure of human rights organizations; violence and discrimination against women, including female genital mutilation (FGM); child abuse, including sexual violence and recruitment of child soldiers, particularly in Darfur; preventing international human rights observers from traveling to/within Sudan; trafficking in persons; discrimination and violence against ethnic minorities; denial of workers' rights; and forced and child labor.

In Darfur government-aligned militias killed and injured civilians, including during attacks on villages; raped women and children; destroyed and looted civilian property; and used child soldiers.

Rebel factions and bandits in Darfur killed and abducted civilians, humanitarian workers, and United Nations—African Union Mission in Darfur (UNAMID) personnel; beat and raped civilians; and recruited and used child soldiers.

In Southern Sudan, serious human rights abuses were reported during the year, including extrajudicial killings, physical abuse, and rape of persons by the SPLA; poor prison and detention center conditions; arbitrary arrest; lengthy pretrial detention; use of child soldiers; abduction of women and children; restrictions on media freedom; forced evictions without due process; and child labor. Interethnic violence was a severe problem.

The Lord's Resistance Army (LRA) attacked villages and killed and abducted civilians in the south.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were numerous reports that the government and its agents committed arbitrary and unlawful killings. Government forces, government-aligned militias, and rebels killed civilians in connection with the conflict in Darfur (see section 1.g.).

For example, SAF and SPLA forces, and the LRA killed civilians in the south (see section 1.g.). Interethnic conflict in the south significantly increased and resulted in civilian deaths (see section 1.g.). Interethnic conflict in Darfur killed civilians. (see section 1.g.).

There were no reported developments regarding civilians killed by fighting between the government and rebels during the May 2008 Justice and Equality Movement (JEM) attack on Omdurman.

There were also no developments regarding persons killed by the National Intelligence and Security Services (NISS) in Khartoum and Omdurman following the attack.

There were no developments regarding protestors killed by security forces in 2008. SPLA soldiers committed extrajudicial killings.

On May 19, in Pibor, SPLA soldiers indiscriminately fired at civilians and their homes, killing five civilians and injuring three other persons. The SPLA claimed that an unknown gunman shot and injured a soldier near their barracks prior to the incident. Five soldiers were detained in SPLA headquarters in Panpandiar, pending military investigation.

There were developments in the June 2008 case of civilians killed and displaced in connection with an SPLA disarmament operation in Iloili and Loguruny villages in Eastern Equatoria. According to the UN, the SPLA stated that members of its Brigade Nine were arrested in connection with the case. No additional information was available.

Nine civilians reportedly died due to landmines in the south during the year. The government continued to cooperate with the UN Mine Action Group to remove landmines in the south.

There were developments in the January 2008 killings of diplomat John Granville and driver Abdelrahman Abbas Rahama. In June a court convicted four suspects of the killings. On October 12, the four were sentenced to death. According to a UN report, they were held incommunicado for a month after their arrest in 2008, and the defendants claimed that they were tortured during that initial period of detention. A fifth man, who provided weapons for the attack, was convicted of arms offenses. Authorities released him for time served in jail.

b. Disappearance.—The government was responsible for politically and ethnically motivated disappearances.

There was one reported development regarding the up to 2,500 cases of Darfuris detained by the NISS following the May 2008 JEM attack. By the end of 2008 authorities had released most of the detainees, but several hundred were still reported missing at the end of that year. On April 5, authorities released Barood Sandal, a prominent human rights lawyer arrested in the days following the May 2008 attack, after the prosecutor dismissed the case for lack of evidence. NISS agents immediately arrested him again and held him until April 23.

There were no developments in the case of Abdelillahi Widaa, cofounder of the NGO Darfur Forum for Reconciliation and Peaceful Coexistence, who turned himself in to the NISS for questioning in May 2008. As of year's end his whereabouts were unknown.

An estimated 15,000 Dinka women and children were abducted from villages in Southern Sudan, mainly from 1983 to 1999; thousands of these persons remain unaccounted for. In contrast with the previous year, the government Committee to Eradicate the Abduction of Women and Children (CEAWC) did not receive government funding and did not return any previously abducted persons. The UN Children's Fund (UNICEF) estimated that 4,000 Dinka abductees remained in South Darfur.

Gunmen in Darfur abducted humanitarian workers and UNAMID personnel (see section 1.g.).

Intertribal abductions of women and children in the south continued. For example, the Murle tribe regularly abducted children during raids.

The LRA abducted persons, including children in Southern Sudan (see section 1.g.).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Interim National Constitution prohibits such practices; however, government security forces continued to torture, beat, and harass suspected political opponents and others. In Darfur and other areas of conflict, government forces, rebel groups, and tribal factions committed torture and abuse (see section 1.g.). SPLA forces sometimes abused persons in the south.

In accordance with Shari'a (Islamic law), the Criminal Act provides for physical punishments, including flogging, amputation, stoning, and crucifixion—the public display of a body after execution. Under the Interim National Constitution, the government exempts the 10 southern states from Shari'a, although its application in the south occurred on an ad hoc basis, and traditional customary law was frequently applied against convicted defendants. Northern courts routinely imposed flogging, especially for production of alcohol.

Government security forces beat and tortured persons in detention, including members of the political opposition, civil society activists, and journalists. These persons were often subsequently released without charge.

On March 6, in Dongola, Northern State, the NISS arrested a man for publishing statements in support of the ICC arrest warrant for President Bashir. Authorities

held the man for six days and beat and tortured him, causing vision and hearing damage. He was released without charge on March 12.

On June 11, at the University of Khartoum, men dressed in black abayas entered a women's dormitory and assaulted 15 Darfuri women. The five most severely injured students sought medical treatment, but police forced them to leave the hospital. The NISS detained many of the assaulted women, as well as others from the same dormitory. Authorities beat them during the detention and later released them without charge. During the attack the women tackled one assailant and held him for authorities, but authorities freed him and did not file charges.

On December 7, police arrested and beat SPLM Head of Northern Sector Yassir Arman, as well as others, following a protest in front of the National Assembly. Security forces arrested 266 persons in protests in several cities the same day, as well as arrested and used excessive force to disperse protesters on December 14 (see sections 2.a. and 2.b.).

There were no developments in the 2008 cases of the secretary of legal affairs for the Transitional Darfur Regional Authority (TDRA), Abdelaziz Sam, and three of his family members; journalist and head of the Darfur Journalist Association Al-Ghali Shegifat; and human rights activists Moniem El Gak, Osman Hummaida, and Amir Suleiman, whom the NISS detained and abused.

Indecent dress is punishable by a maximum of forty lashes, by a fine, or both. Authorities in the north sometimes applied this law against women (see section 2.c.); they did not apply it against men.

Police and NISS officers forcibly dispersed protestors, which resulted in serious injuries (see section 2.b.).

Security forces in the south abused civilians, including two political party members (see section 3).

There were developments regarding the 2008 case in which the SPLA military police detained eight third-country nationals suspected of stealing SPLA payroll funds and reportedly abused four of them. The SPLA reported that the commander and the deputy commander were reassigned for failure to properly supervise and train soldiers, and that a sergeant was permanently dismissed due to wrongfully treating persons in custody.

There were no developments in the March 2008 shooting of an SAF soldier trying to escape an unofficial SPLA detention facility or the June 2008 case of an SPLA captain detained for beating a foreign national.

There were cases in which Southern Sudan Police Services (SPSS) officers and SPLA officers reportedly raped women, including with impunity.

For example, on July 19, in Warrab State, an SPLA soldier raped a woman. The woman and her husband reported the assault to the police and the SPLA Military Intelligence Unit, but the commander denied that one of his soldiers had committed the act, and no action was taken.

Prison and Detention Center Conditions.—Prison conditions throughout the country remained harsh and overcrowded. Almost all prisons lacked basic facilities such as toilets and showers. Health care was primitive; prisoners usually relied on family or friends for food. Officials continued to arbitrarily deny visits to prisoners.

The government routinely mistreated persons in custody. There were credible reports that security forces held detainees incommunicado; beat them; deprived them of food, water, and toilets; and forced them to sleep on cold floors. Prisoners died from lack of health care and poor prison conditions.

For example, according to Amnesty International, Ahmed Suleiman Sulman, one of the 103 persons sentenced to death by antiterrorism courts in relation to the May 2008 JEM attack, died on October 21 from tuberculosis in a police hospital after being transferred there from Kober Prison. Amnesty International stated that authorities did not provide him access to appropriate medical care, that his body showed signs of torture, and that the NGO had received reports that he was suffering from a mental illness during his trial.

Men and women were not held together in the north. Juveniles often were held with adults in the north. Political prisoners were held in special sections of prisons. The main prison in Khartoum, Kober Prison, contained separate sections for political prisoners, those convicted of financial crimes, and an unknown number of JEM detainees.

The government allowed some restricted visits to prisons by human rights observers in the north. The International Committee of the Red Cross (ICRC) had limited access to government prisons during the year; however, released prisoners reported that officials hid high-profile detainees during visits.

Prisons in Southern Sudan provided inmates with at least one meal per day. The Prisons Directorate of Southern Sudan (SSPD) provided separate quarters for male and female prisoners and usually housed juveniles in separate cells. In contrast

with the previous year, there were no reports that prison labor was used for the construction of private residences for SPLM officials.

Pretrial detainees were generally held in jails separate from convicted prisoners in the south. Detention centers in Southern Sudan were under the control of local tribal or state authorities, and were uniformly substandard. Some were holes dug in the ground around a tree, with detainees shackled to the tree. Sanitary and medical facilities were uniformly inadequate.

The UN reported that the SPLA held persons in jails in Kurmuk and Samir in Blue Nile State, and that persons held there reported torture and abuse.

The SSPD permitted monitoring of prison conditions by the ICRC and other observers.

The Minni Minawi faction of the Sudan Liberation Army (SLA/MM) continued to operate detention centers in North Darfur, including in Dar al Salaam, Zam Zam, and Shagil Tobaya. UNAMID reported that detainees were held in poor detention conditions. The SLA and other rebel groups allowed the ICRC access to some detainees. UNAMID visited the SLA/MM detention center in Zam Zam IDP camp during the year.

d. Arbitrary Arrest or Detention.—The Interim National Constitution prohibits arbitrary arrest and detention without charge; however, the government continued to arbitrarily arrest and detain persons, often under the National Security Act. In Southern Sudan, arbitrary arrests and detention were common. While the law does not provide the SPLA with arrest powers, the SPLA arrested and detained persons.

Role of the Police and Security Apparatus.—Several government entities have responsibility for internal security including the police, the NISS, the Ministry of Interior, and the Ministry of Defense; all had active security forces. The NISS maintains security officers in major towns and cities throughout the north, including Darfur, and also has a presence in the south. The NISS also controlled the Central Reserve Police (CRP). The Ministry of Defense's Border Intelligence Force, a loosely organized force composed of former janjaweed fighters, also operated in Darfur.

Security force corruption was a problem, and security force members supplemented their incomes by extorting bribes.

The SPSS has responsibility for law enforcement in the south under the interim GOSS constitution. The SPSS lacked resources and capacity. Police reports were often incomplete, files, if used, were frequently misplaced, and suspects were frequently detained based on accusations rather than official investigations. Police corruption, impunity, and lack of effectiveness were problems. There were reports of retaliation against persons who complained about police abuses.

The SPLA does not have law enforcement authority under the interim GOSS constitution, except when requested by civil authorities due to necessity; however, the SPLA detained persons, including in SPLA-run detention facilities.

The UN Mission in Sudan (UNMIS) regularly trained SSPS and SPLA personnel on a wide range of security-related subjects during the year, but limited GOSS resources hampered the effectiveness of the training programs.

Arrest Procedures and Treatment While in Detention.—Warrants are not required for an arrest in the north. The Criminal Code permits authorities to detain individuals for three days without charge, which can be extended for 30 days by order of the director of security and another 30 days with the approval of the prosecuting attorney. Under the National Security Act, which superseded the Criminal Code, an individual accused of violating national security may be detained for three months without charge, and the director of security may extend this period for another three months. In practice, indefinite detentions were common. The law provides for the individual to be informed of the charges at the time of arrest and for judicial determination without undue delay, but these provisions were rarely followed. In Southern Sudan, under the GOSS 2008 Criminal Procedures Code, a warrant issued by a duly authorized official is required for an arrest, although arbitrary arrests occurred. Police may detain individuals for 24 hours without charge in the south. Detainees in the south were generally informed of charges against them.

The law allows for bail, except for those accused of crimes punishable by death or life imprisonment, and there was a functioning bail system in the north.

Although the law provides for access to a lawyer, government security forces often held persons incommunicado for long periods in unknown locations without access to lawyers or family members. Persons in the south were not always informed regarding their right to access to a lawyer, and there was an insufficient number of lawyers.

Individuals were arbitrarily arrested and detained. The NISS committed numerous arbitrary arrests. Authorities often detained persons for a few days before releasing them without charge, but many persons were held for much longer.

Security forces arbitrarily arrested and detained journalists, NGO members, and political opponents (see sections 1.e., 1.g., 2.a., and 5).

There were reports that some businessmen were held in detention without due process for failure to pay back large loans to Sudanese financial institutions.

Security forces frequently arbitrarily arrested and detained university students (see section 1.b.).

In April authorities reportedly arrested several Darfuri university students who were members of the United People's Front party. At year's end they remained detained without charge at Kober Prison. They did not have access to legal representation.

Security forces in the north often targeted southern women in IDP camps because they produced and sold traditional home-brewed alcohol beverages; these women were arrested and imprisoned for up to six months under Shari'a.

The police arrested unmarried pregnant women who claimed to have been raped. Unless a rape victim could provide proof of the crime, she could be charged with the capital offense of adultery (see section 6).

Lengthy pretrial detention was common. Trial delays were caused by large numbers of detainees and judicial inefficiency, such as the failure of judges to appear for court. In Southern Sudan trial delays also resulted in unreasonably lengthy pretrial detentions, and persons were not provided prompt access to lawyers.

The government routinely imposed house arrest without due process.

e. Denial of Fair Public Trial.—Although the Interim National Constitution and the law provide for an independent judiciary, the judiciary was largely subservient to the president or the security forces, particularly in cases of alleged crimes against the state. The judiciary was inefficient and subject to corruption.

An executive-level judiciary committee recommends and the president appoints the chief justice and justices of the Supreme Court. The president appoints the Constitutional Court's seven members. On occasion courts displayed a degree of independence. However, political interference with the courts was commonplace.

The judicial system includes four types of courts: regular, military, special, and tribal. In the regular court system, there are civil and criminal courts, appeals courts, and the Supreme Court. Military courts tried only military personnel and did not provide the same rights as civilian and criminal courts. Special courts existed in Darfur under the state of emergency to try crimes against the state; there were three such courts, one in each Darfur state capital; however, the courts did not function during the year. Tribal courts functioned in rural areas to resolve disputes over land and water rights, and family matters.

Antiterrorism courts set up to try persons arrested in connection with the May 2008 JEM attack on Omdurman continued to operate. Persons tried under these courts did not have the same rights as those tried in regular courts.

In the south the GOSS employed a judicial system of traditional chiefs' courts, payam (district) courts, county judges, regional judges, and a court of appeals. Traditional courts have been formalized and integrated into the judicial system. The court system did not function in many areas due to lack of infrastructure, communications, funding, and an ineffective police force. The GOSS recognized traditional courts or courts of elders, which applied customary law to most cases in remote and rural areas of the south, including domestic matters and criminal cases.

Trial Procedures.—The Interim National Constitution and law provide for fair and prompt trials as well as a presumption of innocence; however, this was often not respected. Trials were open to the public at the discretion of the judge. In cases of national security and offenses against the state, trials were usually closed. Juries are not used. The accused normally has the right to an attorney, and the courts are required to provide free legal counsel for indigent defendants accused of crimes punishable by death or life imprisonment. Defendants and their attorneys generally had the right to present evidence and witnesses; to be present in court; to confront accusers; and had access to government-held evidence relevant to their cases. However, there were reports that defendants frequently did not receive legal counsel and that counsel in some cases could only advise the defendant and not address the court. There were reports that the government sometimes did not allow the calling of defense witnesses. Defendants have a right to appeal, except in military trials, where there is no appeal.

Persons continued to be tried in antiterrorism courts in connection with the May 2008 JEM attack on Omdurman. Authorities did not permit defendants access to lawyers before trial, held them incommunicado for up to four months, and reportedly tortured defendants. From April to June the antiterrorism courts sentenced 53 persons to death. At year's end the total number of death sentences in the JEM trials was 103.

On January 28, a court found Mohamed Alsary Ibrahim, a former popular police force member, guilty of planning to provide information to the ICC. UNMIS expressed concern that he was not provided access to counsel for three months, that his counsel did not have access to evidence against him, and that his confession was allegedly coerced.

On April 13, authorities hung nine men who received the death sentence for the 2006 killing of the editor in chief of Al Wafaq, Mohamed Taha Mohamed Ahmed. Observers expressed concern that their trials had not been fair, and defendants reported being tortured.

In both the north and south, women were usually not allowed to testify as witnesses without the backing of three men.

Lawyers wishing to practice were required to maintain membership in the government-controlled Sudanese Bar Association. The government continued to arrest and harass members of the legal profession whom it considered political opponents.

Military trials, which sometimes were secret and brief, did not provide procedural safeguards. For example, the defendant's attorney could advise the defendant, but could not address the court. Witnesses may be permitted to appear at military trials.

The Special Courts Act created special three-person security courts to deal with violations of constitutional decrees, emergency regulations, and some sections of the Penal Code, as well as drug and currency offenses. Special courts, composed primarily of civilian judges, handled most security-related cases.

Shari'a is applied in the north, but not in the south, under the Interim National Constitution. However, some judges in the south reportedly continued to follow Shari'a legal procedures. In the south traditional or customary law was often used.

In Southern Sudan observers continued to report concerns that persons sentenced to death often did not receive fair trials due to lack of capacity of the legal system and a lack of adequate legal representation.

In parts of the south and the Nuba Mountains, where civil authorities and institutions did not operate, there were no effective judicial procedures beyond customary courts. According to credible reports, military units in those areas summarily tried and punished those accused of crimes, especially of offenses against civil order.

Political Prisoners and Detainees.—The government held an undetermined number of political detainees. Security forces detained without charge, tortured, and held incommunicado political opponents. Detentions of such persons often were prolonged.

On January 14, authorities arrested without charge Popular Congress Party (PCP) founder Hassan Abdalla al-Turabi and PCP Secretary of Foreign Relations Bashir Adam Rahmaand. Both were released on March 8. Two days before the arrests, Turabi had called for President Bashir to appear before the ICC.

On February 15, authorities arrested PCP Deputy Secretary General Kamal Omar and subsequently sentenced him to eight months in prison for defamation and publication of false news. The charge was in relation to an article he had written in 2006 in which he claimed the NISS discriminated against a group of Darfuris. He spent two months in prison before being released upon appeal.

The government detained persons who participated in political protests (see section 2.b.).

The government did not permit international humanitarian organizations to have access to political detainees.

Civil Judicial Procedures and Remedies.—There was access to a court for lawsuits seeking damages for human rights violations; however, the judiciary was not independent. There were problems enforcing domestic court orders.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Interim National Constitution and law prohibit such actions, but the government routinely violated these rights in practice.

Security forces frequently conducted searches without warrants and targeted persons suspected of political crimes.

In Darfur government armed forces, aligned militia, and rebels continued to kill civilians. The government continued to bomb villages (see section 1.g.).

Police often entered IDP areas without a warrant in search of illegal alcohol brewing and often seized property unrelated to brewing. Police also extorted money from illegal alcohol brewers by threatening them with prison.

The government monitored private communication and movement of individuals without legal process. A wide network of government informants conducted surveillance in schools, universities, markets, workplaces, and neighborhoods.

Under Shari'a, a Muslim man may marry a non-Muslim, but a Muslim woman cannot marry a non-Muslim unless he converts to Islam; this prohibition was not

observed or enforced universally in the south or among the Nubans. Non-Muslims may adopt only non-Muslim children; no such restrictions apply to Muslim parents.

The government detained persons for alleged violations by a member of their family.

The GOSS generally did not interfere with privacy, home, or correspondence in the south; however, there were reports that rural detention centers held family members of accused persons who had fled before they could be arrested in the south.

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—Darfur.—In Darfur fighting involving government, government-aligned militias, rebel groups, and ethnic groups continued at lower levels than in previous years. Attacks and other acts of violence by all parties to the conflict resulted in civilian deaths and injuries, displacement, and property destruction. For example, the UN reported that between January and mid-May, approximately 137,000 persons in Darfur were displaced as a result of the conflict. Government forces provided support, weapons, and ammunition to government-aligned militias, and the government generally took no action against soldiers or militia members who attacked civilians. Rape and recruitment of child soldiers continued to be widespread.

On March 4, the ICC issued an arrest warrant for President Bashir as an indirect perpetrator or as an indirect coperpetrator of five counts of crimes against humanity—murder, extermination, forcible transfer, torture, and rape—and two counts of war crimes—intentionally directing attacks against a civilian population as such or against individual civilians not taking part in hostilities, and pillaging in Darfur between March 2003 and July 2008. Following the announcement, the government expelled 13 humanitarian NGOs from the country. The government also shut down three Sudanese NGOs in March. The expulsions and closures resulted in significant gaps in food, shelter, health care, water, sanitation, and hygiene assistance. While some programs were able to continue utilizing local staff and government assistance, the expulsions dramatically decreased nonemergency humanitarian services.

On May 7, Ahmad Muhammad Haroun, for whom the ICC issued a warrant of arrest in 2007 when he was then state minister for humanitarian affairs, was appointed the governor of Southern Kordofan.

Ali Muhammad Abd al-Rahman, also known as “Ali Kushayb,” a janjaweed militia commander, for whom the ICC issued a warrant of arrest in 2007, remained at large.

The African Union High-Level Panel on Darfur, led by former South African president Thabo Mbeki, conducted extensive meetings and hearings throughout the year in Khartoum and Darfur. In October the panel released a report with recommendations that included the creation of a hybrid court of Sudanese and international judges to prosecute the most serious crimes committed in Darfur and a truth and reconciliation commission.

Killings.—Government forces and government-aligned militias engaged in the deliberate killing of civilians, including continued aerial bombardment of civilian areas. The aerial bombardment of villages was often followed by ground attacks by janjaweed.

In January in and around Muhajeria, South Darfur, fighting involving government forces and SLA/MM against the JEM resulted in deaths, injuries, and displacement of civilians. On January 14, the JEM attacked SLA/MM-controlled Muhajeria and took control of the town until February 3, when it withdrew. Government forces conducted aerial bombing of the area from January 22 to February 4. Two of the bombs hit an IDP site, killing a child. The fighting and bombing resulted in the almost complete displacement of the area’s 30,000 residents.

On June 27 and 28, government aerial attacks and a subsequent ground assault on the village of Hashaba resulted in 38 deaths.

Beginning in early September, the SAF attacked SLA/Abdul Wahid (SLA/AW)-controlled Korma, North Darfur. On September 17, SLA/AW withdrew from Korma. Estimates on the number of civilians killed and displaced varied. A September 29 UNAMID assessment found that the fighting resulted in 13 civilian deaths and the displacement of 31,000 persons, extensive looting, and sexual violence.

Government security forces frequently fired on uniformed rebels in civilian areas, including those of DPA signatory SLA/MM.

Conflicts between different government security forces and between government forces and militiamen resulted in civilian casualties.

For example, on May 2, near Nyala, shots fired between NISS and CRP forces resulted in three civilian deaths.

On May 9, in the main market area of El Fasher, shots fired between an SAF soldier and militiamen resulted in four civilian deaths.

Conflicts among different rebel groups and with militia in Darfur resulted in civilian casualties throughout the year.

In May JEM attacked SLA/MM positions in Gorbora and east of Um Barro. Reportedly, 50 civilians were killed in the clash.

On February 8, in Wada'ah, North Darfur, fighting broke out between the SLA/MM and armed Mima militiamen, who opposed SLA/MM attempts to recruit them and to increase "taxes" on them. On February 10, SLA/MM forces attacked Wada'ah, destroying much of town and causing deaths and injuries. Government forces attacked SLA/MM forces on February 11 and gained control of the town.

There were developments in the ICC prosecutor's November 2008 sealed request for an arrest warrant for three rebel commanders for war crimes pertaining to the 2007 attack on African Union peacekeepers at Haskanita. On May 18, United Resistance Front in Darfur commander Bahr Idriss Abu Garba, alleged to have planned and executed the attack along with other persons, voluntarily appeared before the ICC in response to a summons. He was charged with three war crimes: violence to life in the form of murder, whether committed or attempted; intentionally directing attacks against personnel, installations, materials, units, and vehicles involved in a peacekeeping mission; and pillaging. On October 19-29, the court held confirmation hearings for the case. The names of the two other rebel commanders were not announced publicly during the year, and they did not appear before the ICC.

Chadian armed groups, who operated openly in Darfur and were supplied and supported by Sudanese authorities, committed abuses in Darfur.

According to an NGO report, in December Chadian rebels in North Darfur committed abuses including attacking villages, killing, raping, and looting from civilians.

Intertribal fighting also resulted in the killings of civilians, particularly in South Darfur. For example, in March fighting between the Habaniya and Fallata tribes resulted in an unconfirmed number of civilian casualties.

In North Darfur in late October, fighting between Birgit and Zaghawa tribesmen near Shangil Tobayi town killed 12 persons.

Physical Abuse, Punishment, and Torture.—All parties to the conflict perpetrated acts of torture and abuse. The government abused persons detained after armed conflict as well as IDPs suspected of having links to rebel groups. There were continued reports that janjaweed, rebels, and government security forces raped women and children.

In 2005 the UN noted the "widespread and systematic" prevalence of sexual violence in Darfur directed against women and girls. An October UN Panel of Experts report found that sexual and gender-based violence continued throughout Darfur. IDPs reported that perpetrators of such violence were often members of Arab militia, government forces, rebel groups, and Chadian armed opposition groups. Assaultants assaulted, raped, threatened, shot, beat, and robbed women.

For example, the panel noted a May 15 case, near Al Hamadiya Camp in Zalingei, in which three armed men gang-raped and stabbed a woman who was collecting firewood; the woman had been raped previously in 2003.

The government's expulsion of 13 NGOs resulted in closure of most gender-based violence programs.

Authorities often obstructed access to justice for rape victims, and during the year only four soldiers were convicted of rape in Darfur.

UNAMID documented cases of abuse, arbitrary arrest, and torture by security forces in Darfur, including the CRP.

Child Soldiers.—Recruitment of child soldiers remained a serious problem in Darfur. The Armed Forces Act prohibits the recruitment of children and provides criminal penalties for perpetrators.

A UN report covering the period of September 2007 to December 2008 reported that there were more than 14 Sudanese and foreign armed forces and groups in Darfur that recruited and used children. The majority of cases occurred in West Darfur. These groups included the SAF; police including the CRP; government-aligned militias; Chadian rebels; JEM; JEM (Peace Wing); Movement of Popular Force for Rights and Democracy; SLA/AW; SLA/Abu Gasim/Mother Wing; SLA/Free Will; SLA/MM; SLA/Peace Wing; and SLA/Unity. Darfur rebel groups also recruited child soldiers in the Sudanese refugee camps in Chad.

In 2007 UNICEF signed an action plan with SLA/MM that committed the rebel group to identifying locations of child soldiers; however, SLA/MM continued to use child soldiers.

Between August and July, in Northern Darfur, SLA/Free Will released 144 child soldiers.

There were developments in the 2008 case of children detained in connection with the JEM attack on Omdurman. As of December, 119 children received pardons and were released, but some children were sentenced to death and remained detained at year's end.

Other Conflict-Related Abuses.—All parties to the conflict obstructed the work of humanitarian organizations and UNAMID, caused the displacement of civilians, and abused IDPs.

Immediately following the March 4 ICC announcement of the arrest warrant for President Bashir, the Humanitarian Affairs Commission (HAC) ordered 13 NGOs to depart the country within 24 hours. The government also shut down three Sudanese NGOs in March.

The expulsions reduced the access of 1.5 million persons to healthcare; 1.16 million to water, sanitation, and hygiene; and 1.1 million to food aid. While some programs were able to continue by utilizing local staff and government assistance, the expulsions dramatically decreased nonemergency humanitarian services.

Following the expulsions, armed SAF and NISS officers arrived at the Darfur field offices of several NGOs and confiscated office equipment and personal possessions of NGO staff. NGOs reported that not all seized assets had been returned by year's end.

According to the UN, the NISS detained four staff members of expelled international NGOs in South Darfur, severely beating one.

The UN also reported that the NISS arrested, detained, and later released four Sudanese UNAMID staff members in the period before and after the ICC announcement. One was arrested on February 29 and another on March 6. They were both questioned regarding their work with UNAMID and were released after two weeks. On April 11, two other UNAMID national staff members were arrested. They were accused of helping the ICC and were beaten, deprived of sleep, threatened with death, subjected to painful positions, and later released.

On April 11, authorities arrested Mohamed Al Mahjoub, director of the Amal Centre in El Fasher, and detained him incommunicado. He was released on April 17 without charge.

IDP leaders temporarily blocked humanitarian access to Kalma camp in protest of the NGO expulsions.

Despite the March 2007 Joint Communiqué between the government and the UN, government forces frequently harassed NGOs that received international assistance; restricted or denied humanitarian assessments; did not approve technical agreements; changed procedures; copied NGO files; confiscated NGO property; questioned humanitarian workers at length; monitored humanitarians' personal correspondence; delayed the issuance of visas and travel permits; restricted travel; and publicly accused humanitarian workers of being "spies," "Western agents," and "workers for Israel."

On May 12, the NISS briefly detained 12 staff members of national NGOs at Zalingei airport and took possession of 177,000 Sudanese pounds (\$75,000) of project funds that the NGOs received from UNAMID.

Policy discrepancies between Darfur state-level and Khartoum-based officials in the HAC adversely affected humanitarian operations.

The HAC continued to request that NGOs refrain from interviewing or selecting staff unless they used a five-person government selection panel and had HAC officials present, significantly delaying the hiring of new staff in Darfur. The HAC also continued to impose additional requirements on humanitarian organizations during the year.

Rebel forces and bandits obstructed humanitarian assistance, regularly attacked the compounds of humanitarian organizations, and seized humanitarian aid, assets, and vehicles. Attacks against humanitarian convoys increased during the year. According to the UN, bandits and other armed persons killed seven humanitarian workers, assaulted 26 humanitarians, abducted 11 humanitarians, attacked 103 humanitarian compounds, and stole 64 humanitarian vehicles during the year as of September 28. Instability forced many international aid organizations to reduce their operations in Darfur.

On March 11, in Saraf Umra, North Darfur, armed men abducted three international and two national staff of Doctors without Borders-Belgium. They released one national staff member the same day. The three international staff and the other national staff member were released on March 14.

On July 3, in Kutum, NGO workers Sharon Commins and Hilda Kawuki were abducted from their homes and held for 107 days.

On October 22, armed men abducted ICRC staff member Gauthier Lefevre near Al Geneina, West Darfur. Authorities reportedly detained three persons in connection with the abduction. At year's end Lefevre was still being held.

The government restricted UNAMID's movement, including its access to IDP camps. Government forces at times threatened to use force against, and fired shots toward, UNAMID forces. Between January and October the government restricted UNAMID's movement on at least 42 occasions. The government was uncooperative with the UN Panel of Experts.

SLA/AW also restricted UNAMID's movement. On November 4, in Deribat, South Darfur, SLA/AW members surrounded a UN helicopter and prevented it from taking off for three hours.

According to the UN, bandits and other armed persons killed four UNAMID personnel, assaulted five UNAMID personnel, attacked 122 UNAMID structures, and stole 31 UNAMID vehicles during the year as of September 28. At year's end UNAMID reported that violence had killed 22 UNAMID personnel since January 2008.

For example, on August 29, gunmen abducted two UNAMID staff members from their residence in Zalingei, West Darfur. They were released on December 13.

On September 29, armed men attacked a UNAMID convoy. The attack resulted in the death of one peacekeeper and injured two others. The attackers also stole one vehicle in the convoy.

On December 4-5, unidentified assailants in North Darfur killed a total of five UNAMID peacekeepers in two separate incidents.

According to the UN, nearly 2.7 million civilians had been internally displaced, and more than 250,000 refugees had fled to neighboring Chad since the conflict in Darfur began in 2003. Despite the signing of the DPA in 2006, continued attacks and violence in Darfur, perpetrated by all parties to the conflict, resulted in displacement during the year. For example, the UN reported that between January and mid-May, approximately 137,000 persons in Darfur had been displaced as a result of the conflict. Some existing IDPs were displaced for the second or third time. Darfur IDPs did not return in any significant numbers to their place of origin, although small-scale spontaneous returns to certain villages occurred.

There were numerous reports of abuses committed by security forces, rebels, and militias against IDPs, including rapes, beatings, and attempts by the government to forcibly return or relocate persons to other sites. The government harassed IDPs in Darfur who spoke with foreign observers.

On August 1-4, following the July killing of IDP camp leader Omer Adam Ishaq and his wife, authorities took 14 IDP leaders into custody. The IDP leaders were released on August 19, but were arrested again that same day. Two additional leaders were arrested in September. At year's end the IDP leaders remained detained without access to legal counsel at Shala Prison outside of El Fasher and at NISS facilities. Authorities charged only two of the detainees.

Insecurity in Darfur, especially outside of IDP camps, restricted IDPs' freedom of movement; women and girls who left the town and camps risked sexual violence.

The government forced IDPs to relocate to alternative IDP camps or other sites.

There were reports that the government forced or coerced IDPs to return to their villages by promising food and money; however, most IDPs who returned to the villages to receive the assistance later returned to the IDP camps. Government attempts to resettle IDPs were generally unsuccessful.

The government provided little assistance or protection to IDPs in Darfur. Most IDP camps had no functioning police force.

International observers noted that criminal gangs aligned with rebel groups operated openly in several IDP camps and operated back and forth across the border with Chad.

Rebel forces based in Chad attacked government military installations, resulting in civilian displacement. For example, on May 24, in Umm Barro, North Darfur, fighting between government and JEM forces resulted in the displacement of 300 civilians.

There were no developments regarding the August 2008 killings of 33 IDPs and injuring of 108 IDPs by the CRP at Kalma IDP Camp.

Southern Sudan.—Interethnic violence and LRA attacks in the south significantly increased during the year. The violence resulted in an estimated 2,500 deaths and the displacement of 359,000 persons.

Tensions over CPA implementation persisted, and fighting between SPLA and SAF members in Malakal resulted in civilian deaths.

On July 22, the Permanent Court of Arbitration (PCA) issued a determination on the boundaries of Abyei. The NCP and the SPLM announced they would accept the decision. Misseriya elements later rejected the findings. Little progress was made on demarcating the border due to insecurity and lack of political will. Deployment of joint integrated units continued, but the units did not have sufficient equipment

or training. Few persons displaced by May and December 2008 fighting in Abyei town returned.

Killings.—On February 24 and 25, in Malakal, fighting between SPLA and SAF members of joint integrated units resulted in 31 civilian deaths and injuries to 21. Reports indicated that both the SPLA and the SAF were responsible for civilian deaths. An SAF tank reportedly fired into a civilian area, killing eight persons. A UN investigation indicated that SPLA soldiers shot six unarmed civilians from the north.

On October 2, SPLA forces loyal to Deputy Chief of Staff Paulino Matiep and bodyguards for the Unity State governor, Brigadier General Taban Dang Gai, clashed in Bentiu, resulting in the deaths of four civilians, including a child, and injuries to four more.

The LRA killed civilians in Southern Sudan, particularly in Western and Central Equatoria, throughout the year. According to UN agencies, LRA attacks killed more than 200 persons between December 2008 and November. They often attacked near food distribution locations.

On January 2, LRA members attacked the village of Mboroko, killing 18 persons and injuring eight others.

On October 14, LRA members attacked Bambia Village in Yambio County, killing two women.

On December 15, LRA members attacked Boro-Medina in Raja County, killing one person and abducting 13 others.

Intertribal and intercommunal clashes, particularly in Jonglei, Upper Nile, Lakes, and Warrab states, increased during the year and resulted in civilian deaths.

For example, between March 5 and 13, in Pibor County, Jonglei State, fighting between Luo Nuer and Murle tribes resulted in civilian deaths and displacement. The Lou Nuer reportedly attacked the Murle after Murle raids on Nuer cattle camps. The commissioner of Pibor County stated that more than 450 persons were killed, several hundred wounded, more than 1,000 persons displaced, and an unknown number of women and children abducted as a result of the fighting. The UN reported that 5,000 persons were displaced. GOSS President Salva Kiir denied the casualty rates were this high and cited only 52 deaths.

On August 2, in Akobo County, Jonglei State, members of the Murle tribe attacked Lo Nuer villages, resulting in the deaths of 161 persons.

On September 20, in Duk Padiet, Jonglei State, at least 1,000 Luo Nuer tribemen attacked a Dinka village. The fighting resulted in the deaths of approximately 72 civilians and security force members, numerous injuries, and the destruction of approximately 250 homes.

Abductions.—LRA members abducted civilians. Between December 2008 and November, the LRA abducted approximately 150 persons in the south, according to the UN.

On June 24, LRA members reportedly attacked Bariguna Payam in Ezo, Western Equatoria, and abducted nine men, eight women, and three children.

On August 12, LRA members abducted persons during an attack in Ezo Town. Several humanitarian workers left the area as a result of the violence, and the UN temporarily suspended operations. As of October humanitarian workers were still unable to work in Ezo County.

On November 12, near Sakure Town in Western Equatoria, five LRA members attacked the area and abducted eight men.

Children were abducted during intertribal and intercommunal clashes, particularly in Jonglei, Upper Nile, Lakes, and Warrab states.

Child Soldiers.—A UN report covering the period of September 2007 to December 2008 cited that the SAF and SPLA used child soldiers.

On November 20, the SPLA signed an action plan with UNICEF to end the use of child soldiers.

The LRA, who used child soldiers, abducted children from Southern Sudan.

Other Conflict-Related Abuses.—The order for 13 NGOs to depart Sudan resulted in the disruption of humanitarian services in the Three Areas.

The SAF obstructed UNMIS access to areas north of Abyei Town before the PCA decision and continued to deny access to Heglig and Kharasana throughout the year.

Intertribal conflict and LRA attacks limited the ability of humanitarian organizations to provide assistance to vulnerable populations.

On June 12, in Upper Nile State, Jikany Nuer men attacked a World Food Program boat convoy that was transporting food assistance. The attackers killed 31 civilians and destroyed five boats; 15 boats were looted during the attack.

Interethnic and LRA-related violence in the south resulted in the deaths of an estimated 2,500 and displacement of 359,000 persons during the year.

According to the UN, approximately two million persons had returned to south since 2005. These persons had been displaced as a result of conflict, famine, and fighting during the north-south conflict.

Few persons displaced during the May and December 2008 fighting in Abyei returned to the area.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Interim National Constitution provides for freedom of thought, expression, and of the press “as regulated by law”; however, the government severely restricted these rights in practice. The government, through the NISS, continued to censor print and broadcast media, and harass vocal critics of the government. The government controlled the media through the National Press Council, which administered mandatory professional exams for journalists and editors. Journalists also practiced self-censorship.

On June 8, the Press and Publication Law was passed. The law states that no restrictions will be placed on freedom of the press except on issues pertaining to safeguarding national security and public order and health. Civil society expressed concern that the new law did not meet international standards for freedom of expression. For example, it gives the National Press and Publication Council the power to shut down newspapers for three days without a court order.

Individuals who criticized the government publicly or privately were subject to reprisal, including arrest. The government attempted to impede such criticism and monitored political meetings.

The government directly controlled some print media outlets and exerted a great degree of control over the limited number of independent newspapers, including through direct censorship.

The government directly controlled radio and television and required that both reflect government policies. Some foreign shortwave radio broadcasts were available. A private FM radio station continued to operate, and the government restricted UN radio to operating only in the states of the south. In addition to domestic and satellite television services, there was a pay cable network, which directly rebroadcast uncensored foreign news and other programs.

The government restricted international media in the north. While some foreign journalists were denied visas, others had regular access to opposition politicians, rebels, and civil society advocates.

On February 1, authorities ordered Egyptian-Canadian journalist Heba Aly, who had been researching the manufacture of Sudanese weapons, to leave the country. Aly reportedly had been harassed by security officials since October 2008.

In early March authorities deported foreign journalist Zouhir Latif. Prior to his deportation, he was arrested and detained for two days. Latif had been in Darfur before his arrest.

Journalists were subjected to arrest, harassment, intimidation, and violence due to their reporting.

On November 10, the government’s National Press and Publications Council reportedly revoked the journalism license of Al-Wifaq editor Ahmed Fadallah. The following day a court suspended the revocation.

On December 14, Rushan Oshi, a journalist for the Al-Tayier newspaper, was arrested while covering a political demonstration (see section 2.b.). She was beaten and suffered a broken finger. Authorities released her after several hours and charged her with disturbing the peace.

The government directly censored the media.

On February 10, March 17, and July 28, the newspaper Al-Maidan was reportedly not published after authorities censored articles from those issues.

Official censorship prevented the publication of the newspaper Ajas al-Hurriya multiple times during the year.

On September 9, the NISS censorship prevented the publication of the newspaper Al-Sudani.

On September 27, President Al-Bashir issued a decree to eliminate the nightly direct NISS newspaper censorship that began in March 2008. The decree is based on a new code of honor signed by a group of editors and NISS officials. Other restrictions, such as calls from government officials to editors and writers warning of off-limit topics and prohibiting advertisers from placing ads in newspapers the government did not favor, continued.

Authorities similarly harassed English-language newspapers whose primary readership was southerners.

There were some reports of harassment of journalists in Southern Sudan.

On January 13, biweekly Juba Post editor in chief Isaac Billy Cideon was detained for nine hours for publishing a press release in October 2008 accusing SPLA Major General Wilson Deng of illegally selling local land to Somali businessmen without community consent.

On October 9, following false rumors that GOSS President Salva Kiir had died, armed SSPS officers entered the Juba compound of UNMIS and demanded that UNMIS Radio Miraya FM shut down temporarily following a taped interview with GOSS Vice President Riek Machar aimed at dispelling a hoax.

On May 16, in Juba, SPLA military police reportedly briefly detained, searched, and questioned journalists Abdulgadir Mohammed and Adil Badir and confiscated their telephones.

Internet Freedom.—The government monitored Internet communications, and the NISS read e-mail messages between private citizens. Some Web sites deemed offensive to public morality were blocked by the National Telecommunications Corporation, as were most proxy servers. While there generally were no restrictions on access to news and information Web sites, authorities regularly blocked access to youtube.com. According to International Telecommunication Union statistics for 2008, approximately 10 percent of the country's inhabitants used the Internet.

Academic Freedom and Cultural Events.—The government restricted academic freedom. In public universities the government appointed the vice chancellors, who were responsible for administering the institutions. The government also determined the curriculum. Some universities required students to participate regularly in progovernment rallies and other activities. Some professors exercised self-censorship.

The government frequently censored films, especially those imported from the West, if they were deemed offensive to public morality.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—Although the Interim National Constitution and law provide for freedom of assembly, the government severely restricted this right in practice. The government formally banned all rallies and public demonstrations in the country, although this was not always enforced.

Islamic orders associated with opposition political parties, particularly the Ansar (Umma Party) and Khatmiya (Democratic Unionist Party), continued to be denied permission to hold large public gatherings, but did hold regular opposition rallies on private property. Government security agents occasionally attended opposition political meetings, disrupted opposition rallies, and summoned participants to security headquarters for questioning after political meetings.

Authorities prevented persons from meeting to discuss the elections planned for April 2010.

Police use of excessive force to disperse persons resulted in injuries.

On March 11, at Dilling University in Southern Kordofan State, a group identified as students, former students, and NISS officials broke up an authorized student forum. The NISS officials and others attacked the group of approximately 200 students with sticks and iron bars. Ten students were reportedly injured.

On December 7, authorities in Omdurman arrested 146 persons, including SPLM Secretary General Pagan Amum and Head of Northern Sector Yassir Arman. Many, including Yassir Arman, were beaten by police. The arrests followed an SPLM-led demonstration aimed at delivering a memo to the National Assembly speaker calling for progress on pending key legislation needed for CPA implementation. Authorities also arrested an additional 120 persons in protests in the northern cities of Wad Madani, El Obeid, and El Hasahisa. All those arrested were released by the following morning.

On December 14, police arrested several high-ranking opposition party members, including prominent Umma Party member Mariam Al-Sadiq, along with approximately 100 other protesters as the group attempted to march to the National Assembly following a political rally in Omdurman. Security forces used excessive force and tear gas to disperse the crowd of approximately 300 demonstrators. Authorities released those arrested by the following morning.

Authorities took no action against security forces that used excessive force.

Freedom of Association.—The Interim National Constitution and law provide for freedom of association, but the government severely restricted this right in practice. There were 76 officially registered political parties as of August 31. The law effectively prohibits political parties linked to armed opposition to the government. SLM/MM was not permitted to register. The government continued to harass some opposition leaders who spoke with foreign organizations or embassies.

c. Freedom of Religion.—The Interim National Constitution and law provide for freedom of worship throughout the country; however, the government continued to

place restrictions on non-Muslims, non-Arab Muslims, and Muslims from tribes or sects not affiliated with the ruling party. The NCP, which originally came into power with a goal of Islamization, treated Islam as the state religion, declaring that Islam must inspire the country's laws, institutions, and policies.

Religious organizations, including churches, were subject to the same restrictions placed on nonreligious corporations. Although the law requires religious groups to register to be recognized or to assemble legally, the registration requirement was not enforced, and churches, including the Catholic Church, declined to register.

Blasphemy and defaming religion are punishable by imprisonment in the north, although these restrictions were rarely enforced.

The Commission for the Rights of Non-Muslims in the National Capital, a CPA mechanism for protecting religious freedom, issued regular reports and recommendations to the government.

On March 27, local officials in Chat, a Nuba Mountains village, allegedly led a mob that razed a building used by the Evangelical Presbyterian Church and the Sudanese Church of Christ.

In February in Southern Kordofan, two local members of the NCP-aligned Popular Defense Force (PDF) reportedly threatened to kill a Presbyterian church leader. On March 1, PDF members interrupted a church service and threatened further destruction after breaking the cross on the church's roof. On March 7, a church in Shatt Mazarik was the target of an arson attack, and on March 21, there was a similar attack on a church in Shatt Dammam.

There were numerous ongoing disputes between the government and various churches involving confiscated church property. There were no reports of court-ordered property restitution or compensation.

The construction and use of houses of worship required government approval.

According to an NGO report, in June a group of Christian clergy members in Khartoum were arrested while worshipping.

Under the state-mandated curriculum, all schools in the north—including private schools operated by Christian groups—are required to teach Islamic education classes from preschool through university.

While the law permits non-Muslims to convert to Islam, conversion by a Muslim is punishable by death. Authorities occasionally subjected converts to intense scrutiny, ostracism, and intimidation or encouraged them to leave the country; however, there were no reports of conversion punished by death.

The government restricted foreigners from entering the country expressly for Christian missionary work. Foreign Christian religious workers, including priests and teachers, experienced lengthy delays in obtaining visas.

On February 1, the HAC expelled the NGO Thirst No More from Darfur, accusing it of Christian proselytizing.

The NISS routinely monitored religious activities at mosques and churches.

Various governmental bodies have decreed that women must dress modestly according to Islamic standards, including wearing a head covering, and there were instances in which police in the north and south arrested women for their dress. However, women often appeared in public wearing trousers or with their heads uncovered. In Khartoum an informal group of persons known as religious police, who were not government officials, occasionally demanded that women pay on-the-spot fines for violating Islamic standards. The government's public order police conducted raids of public establishments in Khartoum to arrest women for violating Islamic dress codes. Punishment for violating the dress code was 50 lashes, although those arrested were sometimes able to pay bribes to escape punishment.

On March 26, in Khartoum, police reportedly arrested two Christian women for wearing trousers. They were released pending trial. On March 29, a court sentenced them to 40 lashes or to a fine. The two women paid the fine and were released.

On July 3, authorities arrested 13 women and girls for wearing pants. Ten of them, including three girls, did not have legal representation and received 10 lashes and had to pay fines. Three of the women, including Lubna Hussein, asked for legal representation. Two of these women accepted a presidential pardon; one, Lubna Hussein, did not accept the pardon. On September 7, a court found Lubna Hussein guilty of immoral or indecent dress. Hussein was sentenced to either pay a fine or serve one month in jail, but was released on September 8, when, against her wishes, the head of the progovernment Sudanese Journalists' Union reportedly paid the fine on her behalf. Hussein was not permitted to enter a plea or call witnesses on her behalf. Authorities arrested and later released 45 peaceful protesters who waited outside the trial in support of Hussein. They also harassed and arrested journalists covering the trial. Hussein's appeal of the conviction was pending at year's end.

On November 18, police reportedly arrested 16-year-old Silva Kashif for indecent dress; she was wearing a skirt. Authorities lashed Kashif 50 times.

In the south Christians, Muslims, and followers of traditional indigenous beliefs generally worshiped freely. The GOSS officially favored secular government. Christians dominated the GOSS. Local government authorities often had a close relationship with local Christian religious leaders.

Societal Abuses and Discrimination.—Muslims in the north who expressed an interest in Christianity or converted to Christianity faced severe social pressure. Christians reported pressure on children in school; some teachers and media characterized non-Muslims as nonbelievers.

There were reports that some Muslims received preferential treatment regarding limited government services, such as access to medical care, and in court cases involving Muslim against non-Muslim.

Non-Arab Muslims and Muslims from tribes and religious groups not affiliated with the ruling party, such as in Darfur and the Nuba Mountains, stated that they were treated as second-class citizens and were discriminated against in applying for government jobs and contracts in the north and government-controlled southern areas.

The Jewish community remained small, and there were no reports of anti-Semitic violence during the year; however, government officials made anti-Semitic comments, and government-controlled newspapers featured anti-Semitic caricatures.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The Interim National Constitution and law provide for freedom of movement, foreign travel, emigration, and repatriation, but the government restricted these rights in practice.

The government impeded the work of the UN High Commissioner for Refugees (UNHCR) and delayed full approval of UNHCR activities, particularly in North and South Darfur. In some cases it cooperated with the UNHCR and other humanitarian assistance organizations in assisting refugees and asylum seekers. In previous years the government defied agreements and targeted refugees and asylum seekers for abuse, although specific information regarding whether this occurred during the year was not available. The government permitted refugees from Eritrea and Ethiopia to remain in the country and travel to Khartoum.

In the south the GOSS cooperated with the UNHCR and other humanitarian organizations in providing protection and assistance to IDPs and returning refugees.

The government required citizens to obtain an exit visa to depart the country. While the issuance of exit visas was usually pro forma and not used to restrict citizens' travel, the government did deny some humanitarian workers exit visas.

Women cannot travel abroad without the permission of their husbands or male guardians; however, this prohibition was not applied in the south and was not strictly enforced.

The government restricted persons from traveling outside of the country to attend conferences. In May the government restricted more than 50 Darfuris from traveling to a conference in Ethiopia, hosted by the Mo Ibrahim Foundation, to discuss peace-building and reconciliation in Darfur. The restriction resulted in the cancellation of conference.

While movement was generally unhindered for citizens outside conflict areas, foreigners needed government permission for domestic travel outside of Khartoum, which could be difficult to obtain and was sometimes refused. Foreigners must register with the police on entering the country, obtain permission to move more than 15.5 miles outside of Khartoum and from one city to another, and reregister at each new location within three days of arrival. The GOSS did not restrict the movement of foreigners in the south and did not require foreigners to register upon entry.

The government delayed issuing humanitarian and diplomatic visas and travel permits for Darfur and the Three Areas to foreign NGO staff.

The law prohibits forced exile, and the government did not use it. Opposition leaders remained in self-imposed exile throughout northern Africa and Europe during the year.

Internally Displaced Persons.—In Darfur approximately 2.7 million civilians had been internally displaced since the conflict began in 2003. Violence continued to displace persons in Darfur during the year. For example, the UN reported that between January and mid-May, approximately 137,000 persons in Darfur had been displaced as a result of the conflict. Many persons were displaced for the second or third time during the year (see Section 1.g.).

In the south interethnic fighting and LRA attacks resulted in the widespread displacement of persons during the year (see section 1.g.).

According to the UN, approximately two million persons had returned to south since 2005 (see section 1.g.).

There were no developments regarding the thousands of persons displaced by the Merowe dam in previous years.

In January authorities in Juba began to forcibly evict persons from residential areas and markets, which were subsequently demolished, displacing more than 30,000 persons, including IDPs. On May 25, UNMIS called for the demolitions to be halted and stated that they were not done in accordance with the law or international human rights standards.

Protection of Refugees.—The country is a party to the 1951 Convention relating to the Status of Refugees, its 1967 Protocol, and the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. Its laws provide for the granting of asylum or refugee status, but the government has not established a system for providing protection to refugees.

In practice the government did not provide protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened.

The government granted asylum to a large number of asylum seekers, but there was no standard determination procedure or documentation. Government officials reportedly were unresponsive to applications for refugee status.

Refugees were vulnerable to arbitrary arrests, harassment, and beatings because applicants did not receive identification cards while awaiting government determination of refugee status. Refugees could not become resident aliens or citizens, regardless of their length of stay. Refugees were not entitled to work permits.

Child refugees did not receive free primary school education nor were they treated as citizens as required by the 1951 convention.

The government provided temporary protection to individuals who might not qualify as refugees under the 1951 convention and the 1967 protocol.

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

The Interim National Constitution provides citizens the right to change their government peacefully; however, elections, originally scheduled under the CPA for July were rescheduled for 2010.

The Interim National Constitution provides for power sharing nationwide between the NCP and the SPLM. The DPA contains provisions for power sharing and the inclusion of Darfuris at all levels of government; however, the majority of the power-sharing provisions in the DPA remained unimplemented at year's end.

The Interim National Constitution established a three-member presidency to head the government, consisting of a president, Omar Hassan al-Bashir (NCP); a first vice president, Salva Kiir Mayardit (SPLM), the president of the GOSS; and a second vice president, Ali Osman Taha (NCP), who was formerly the country's first vice president. The DPA created a fourth ranking member in the presidency, a senior assistant to the president, Minni Minawi, leader of the Darfur rebel group SLA/MM.

A bicameral legislature is composed of the 450-member National Assembly and 52-member Council of States. Legislative and cabinet positions are allocated by a CPA-specified formula that reserves 52 percent of the positions for the NCP, 28 percent for the SPLM, 14 percent for northern opposition parties, including those from Darfur, and 6 percent for southern opposition parties.

GNU members took office in 2005, and in October of that year Salva Kiir Mayardit, the country's first vice president and president of the GOSS, appointed the GOSS cabinet. At the same time, Kiir appointed governors of the 10 states of Southern Sudan, and each southern state also formed its legislative assembly with 48 members allocated proportionally as stipulated in the CPA: 70 percent to the SPLM, 15 percent to the NCP, and 15 percent to other southern political forces. Southern Sudan's legislative assembly approved an interim constitution in 2005, which President Kiir signed in December of that year.

On October 19, SPLM delegates temporarily withdrew from the national assembly due to concerns over lack of progress on legislative reforms pertaining to the CPA. On December 13, the SPLM and NCP reached an agreement pertaining to legislation on the referendum on southern independence, the Abyei referendum, and popular consultations. On December 20, the National Assembly passed national security legislation without the support of the SPLM or opposition parties. On December 29, the National Assembly passed legislation on the southern referendum in line with the previously agreed language with the SPLM; this superseded legislation passed on December 23 that was not in accordance with the December 13 agreement. On December 30, the assembly passed legislation on the Abyei referendum and on popular consultations in Southern Kordofan and in Blue Nile states.

The DPA-mandated TDRA, headed by Minawi and charged with implementing the DPA and promoting coordination and cooperation among the three Darfur states, was established in 2007, but the government withheld 99 percent of its budget during the year.

Elections and Political Participation.—Presidential and parliamentary elections were last held in 2000; they were marked by serious irregularities, including official interference, electoral fraud, insufficient opportunities for voters to register, and inadequate election monitoring. All major opposition parties boycotted the elections.

On April 1, the National Electoral Commission scheduled national elections for February 2010; they were later rescheduled to begin on April 5, 2010, and then again rescheduled for April 11-18, 2010.

From April 28 to May 9, a UN team conducted an elections assessment in the country. The UN reported that important advances had been made, but noted that several basic actions, including the protection of civil liberties, needed to be implemented to provide a free and fair environment. The report also expressed concern that election preparations were behind schedule, voters needed increased civic education, and the national elections commission needed to address registration constraints of IDPs, refugees, and those without necessary documentation.

Political parties and NGOs also expressed concern that the legal environment did not guarantee civil liberties needed for free and fair electoral environment.

On June 18, the National Electoral Commission's members were sworn in.

Voter registration occurred from November 1 to December 7. The Carter Center observed the registration process. The center's findings included that the process was mostly peaceful and that officials registered relatively high numbers of voters, but also that there was uneven participation across geographic areas, a shortage of registration materials, the collection of registration receipt slips by some political parties, lax procedural compliance, and proxy registration. In Darfur the center noted that election committees could not access all areas, including some IDP camps; some IDPs chose not to participate; and security forces were present at registration centers. UNMIS noted high voter turnout as well, but also reports of irregularities throughout the process including registration of military units outside their constituencies and the registration of more persons than the estimated population in some areas.

On June 29, the results of April 2008 national census were released. The CPA states that certain power sharing provisions of the agreement are to be adjusted based on the census. The SPLM rejected the results, claiming that populations in the south were underestimated. Many IDPs in Darfur also rejected the results.

The law permits the existence of political parties, but prohibits parties linked to armed opposition to the government, and the government routinely denied permission for, or disrupted, gatherings viewed as politically oriented. Security forces arrested, detained, and tortured political opponents.

Authorities regularly impeded and monitored political party and NGO meetings and activities, and arrested participants.

For example, on June 23, in the state of Khartoum, authorities prevented a public discussion on elections by an NGO. Authorities told the organizers that they needed prior approval to hold the event.

On August 6, the NISS disrupted a public talk about the upcoming elections. Security forces dispersed the crowd from the Sudanese Congress Party and ordered the organizers to cancel the event. The organizers had reportedly obtained all the necessary permissions and clearances to hold the public event.

On September 9, the NISS prevented three organizations from holding a symposium on elections at Khartoum University.

In the south authorities obstructed the activities of Democratic Change (SPLM-DC).

On July 3, SPLA soldiers arrested two members of the recently formed SPLM-DC. One of the men was released on July 13 and stated that SPLA members beat him while in custody. The other person was reportedly beaten so severely that he required hospital care and was subsequently released by the SPLA.

On November 9, the GOSS issued an order to governors in the south to not impede the actions of any political party, except the SPLM-DC. SPLM-DC founder Lam Akol appealed the decision and later announced that the Constitutional Court granted the appeal.

Women had the right to vote. There were approximately 80 women in the 450-seat National Assembly, three national female state ministers, and one female minister in the GNU. The GOSS agreed to set aside 25 percent of all government positions for women, although in practice representation was far short of that goal. The DPA also includes provisions to ensure the representation of women at all levels of government; however, in practice there were few women in government in Darfur.

Under the July 2008 National Elections Law, 25 percent of the seats in the national, Southern Sudan, and state assemblies are to be filled from state-level women's lists.

Section 4. Official Corruption and Government Transparency

The law does not provide criminal penalties for official corruption, and officials frequently engaged in corrupt practices. The government did not investigate officials suspected of corruption. Government officials were not subject to financial disclosure laws.

There were no laws providing for public access to government information, and the government did not provide such access.

The Auditor General's report on fiscal year 2008 found that 5.4 billion Sudanese pounds (\$2.3 billion) was embezzled from government institutions.

In Southern Sudan, GOSS officials often engaged in corrupt practices with impunity. Corruption was a problem in all branches of the GOSS.

The GOSS granted access to government information for citizens and noncitizens, including foreign media.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The government was uncooperative with and unresponsive to domestic human rights groups. Both domestic and international human rights organizations were restricted and harassed.

While various local human right groups were active in the country, the government, in addition to expelling 13 international organizations, closed three major domestic NGOs in March: the Khartoum Centre for Human Rights and Environmental Development, the Amal Centre for Treatment and Rehabilitation, and the Sudan Social Development Organization (SUDO). The Khartoum Centre and SUDO's assets were seized.

Members of local and international human rights organizations were subject to arrest and detention, including in Darfur (see section 1.g.).

For example, on August 30, the NISS arrested Abdel Majeed Saleh Abakr Haroun, a Darfuri human rights activist and leading member of the Darfur Democratic Forum. He was on his way to meet students who were beaten in the June 11 Khartoum University attack. At year's end he remained in NISS custody without charge.

NGOs must register with the HAC, the government's entity for regulating humanitarian efforts. The HAC obstructed the work of NGOs, including in Darfur and the Three Areas (see section 1.g.). During the year the HAC often changed its rules and regulations without prior notification.

The government continued to use bureaucratic impediments to restrict the actions of humanitarian organizations, despite the 2007 Joint Communiqué between the government and the UN. This included delaying the issuance of visas and travel permits to humanitarian workers.

The government's Advisory Council for Human Rights did not respond to requests of international organizations for investigations into human rights violations, and it did not provide lists of detained individuals to the international community.

On April 21, the National Commission for Human Rights Act was adopted. A commission had not been set up by year's end.

The government did not cooperate with the ICC (see section 1.g.).

In Southern Sudan the South Sudan Council for Human Rights operated somewhat independently. Its members were appointed by the president of the GOSS. The council cooperated with international human rights advocates and submitted regular reports and recommendations to the GOSS.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The Interim National Constitution prohibits discrimination based on race and gender, but the government did not effectively enforce these provisions. The law does not address discrimination against disability, language, or social status.

Women.—The punishment for rape under the law varies from 100 lashes to 10 years' imprisonment to death; however, the government did not effectively enforce these provisions. Spousal rape is not addressed in the law. In most rape cases convictions were not publicized; however, observers believed that sentences often were less than the legal maximum. There was no information available on the total number of persons who were prosecuted, convicted, or punished for rape.

Rape of women and girls throughout the country, including in Darfur, continued to be a serious problem (see section 1.g.). Authorities often obstructed access to justice for rape victims.

Many victims did not report their cases either to family or authorities for fear they would be punished or arrested for "illegal pregnancy" (see section 1.d.).

The law does not specifically prohibit domestic violence. Violence, including spousal abuse, against women was common, although there were no reliable statistics on its prevalence. Women who filed claims were subjected to accusations of lying or spreading false information, harassment, or detention, which made many women reluctant to file formal complaints, although such abuse constituted grounds for divorce. The police normally did not intervene in domestic disputes. Statistics on the number of abusers prosecuted, convicted, or punished were not available. Prostitution is illegal but widespread throughout the country.

While no law specifically prohibits sexual harassment, the law prohibits gross indecency, which is defined as any act contrary to another person's modesty. The penalty for gross indecency is imprisonment of up to one year and 40 lashes. Harassment reportedly occurred, although reliable statistics were not available. There were frequent reports of sexual harassment by police in Darfur and elsewhere.

Couples were able to decide freely on reproductive issues, but societal and religious norms pressured married females to have several children. Contraception, skilled medical attendance during childbirth, and obstetric and postpartum care were not widely accessible. Women had equal access to diagnosis and treatment for sexually transmitted diseases, including HIV.

The law discriminated against women, including many traditional legal practices and certain provisions of Shari'a as interpreted and applied by the government. In accordance with Islamic law, a Muslim widow inherits one-eighth of her husband's estate; of the remaining seven-eighths, two-thirds goes to the sons and one-third to the daughters. It was much easier for men than for women to initiate legal divorce proceedings.

A Muslim woman cannot legally marry a non-Muslim unless he converts to Islam. This prohibition usually was neither observed nor enforced in areas of the south or among Nubans (most of whom were Muslim).

Traditional or customary courts in the south routinely imprisoned women for lengthy pretrial detention on allegations of adultery.

Women cannot travel abroad without the permission of their husbands or male guardians; however, this prohibition was not enforced strictly.

To obtain an exit visa, children must receive the permission of their father or their paternal uncle. Women cannot apply for exit visas for their children.

Various governmental bodies have decreed that women must dress modestly according to Islamic standards, including wearing a head covering. There were instances in which police in the north and south arrested women for their dress, and authorities subjected women to flogging. However, women often appeared in public wearing trousers or with their heads uncovered. In Khartoum persons known as religious police, who were not government officials, occasionally demanded that women pay on-the-spot fines for violating Islamic standards.

Women experienced economic discrimination in access to employment, credit, and pay for substantially similar work, and owning or managing businesses. Women were accepted in professional roles; more than half the professors at Khartoum University were women.

Children.—The Interim National Constitution states that persons born to a Sudanese mother or father have the right to citizenship.

The government did not register all births immediately.

The law provides for free basic education up to grade eight; however, students often had to pay school, uniform, and exam fees. Boys and girls generally had equal access to primary education, although girls were more affected by early marriage and the fact that many families with restricted income chose to send sons and not daughters to school. In Darfur few children outside of cities had access to primary education. Primary school enrollment in the south has tripled since 2005 according to UNICEF. Lack of schools was a serious problem in the south. Girls in the south did not have equal access to education.

In 2005 UNICEF reported that in Southern Sudan only approximately 500 girls completed primary school each year.

Many children were abused, abducted, or used as slaves. Child labor remained a problem.

Female genital mutilation (FGM) remained widespread, particularly in the north, where a 2005 UNICEF estimate put prevalence at 90 percent. While a growing number of urban, educated families no longer practiced FGM, there were reports that the prevalence of FGM in Darfur had increased as persons moved to cities. FGM was also increasing in IDP camps in Darfur. The government actively campaigned against it. Several NGOs worked to eradicate FGM.

The law establishes the legal age of marriage as 10 for girls and 15 or puberty for boys. There were no reliable statistics on the extent of child marriage, but child marriage was a problem.

Child prostitution, trafficking of children, and sexual abuse of children remained problems, particularly in the south. Children engaged in prostitution for survival, usually without third-party involvement.

The country does not have a statutory rape law and there is no minimum age for consensual sex.

Children were used as soldiers in armed groups (see section 1.g.).

Internally displaced children often lacked access to government services such as education.

The government operated "reformation camps" for vagrant children. Police typically sent homeless children who had committed crimes to these camps, where they were detained for indefinite periods. Health care and schooling at the camps generally were poor, and basic living conditions often were primitive. All of the children in the camps, including non-Muslims, must study the Koran, and there was pressure on non-Muslims to convert to Islam.

Trafficking in Persons.—The law does not prohibit all forms of trafficking in persons, but does prohibit abduction, luring, and forced labor. The Interim National Constitution prohibits slavery. The State of Emergency Law prohibits all forms of sexual exploitation, and penalties include fines and imprisonment. However, internal trafficking for the purposes of forced labor, sexual exploitation, and domestic servitude occurred. Women and girls were trafficked to Middle Eastern countries for domestic servitude and to Europe for sexual exploitation. Ethiopian women were trafficked to and through the country for domestic servitude. Children were trafficked through Yemen into Saudi Arabia for forced begging. The recruitment and use of child soldiers was a problem. In the south intertribal abduction of women and children continued.

There were no informed estimates on the extent of trafficking.

Government and other armed groups continued to recruit child soldiers (see section 1.g.).

The LRA, which used child soldiers, continued to operate in the south despite its 2006 signing of an agreement to cease hostilities. The LRA abducted adults and children in the south.

Intertribal abductions of women and children continued in the south. Victims frequently became part of the new tribe, with most women marrying into, or being forcibly married into, the new tribe; however, other victims were used for labor or sexual purposes.

In August police in Jonglei State rescued 12 children and arrested suspected child abductors.

Thousands of Dinka were abducted by the Misseriya and Rezeigat tribes during 1980s and 1990s. In contrast with the previous year, government's Committee to Eradicate the Abduction of Women and Children (CEAWC) received no funding from either the GNU or the GOSS and did not repatriate any individuals to their home regions during the year.

In 2007 the governments of Sudan and the United Arab Emirates signed an agreement establishing claims facilities to compensate former Sudanese child camel jockeys for their injuries. In previous years the government's National Council for Child Welfare reported the repatriation of former child camel jockeys, although none were repatriated during 2009.

There were no prosecutions of trafficking cases during the year.

The government conducted antitrafficking public information and education campaigns at the national, state, and local levels.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—While the law does not specifically prohibit discrimination against persons with disabilities, it stipulates that "the state shall guarantee to persons with special needs the enjoyment of all the rights and freedoms set out in the constitution, access to suitable education, employment, and full participation in society." The government has not enacted laws or implemented effective programs to ensure access to buildings for persons with disabilities. Credible sources noted that prisoners with mental disabilities were chained 24 hours per day, and mentally disabled prisoners were not exempted from trial.

National/Racial/Ethnic Minorities.—The population is a multiethnic mix of more than 500 Arab and African tribes with numerous languages and dialects. Northern Muslims traditionally dominated the government. Interethnic fighting in Darfur was between Muslims who considered themselves either Arab or non-Arab and also between different Arab tribes (see section 1.g.). Interethnic fighting in the south was a severe problem (see section 1.g.).

The Muslim majority and the government continued to discriminate against ethnic minorities in almost every aspect of society in the north. Citizens in Arabic-speaking areas who did not speak Arabic experienced discrimination in education, employment, and other areas. There also were reports of discrimination against Arabs and Muslims by individuals in the Christian-dominated south.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The law prohibits homosexuality; there were no reports of persons being prosecuted on this basis. Societal discrimination against homosexual persons occurred. Sexual orientation was not openly discussed in the country. There were no visible lesbian, gay, bisexual, or transgender organizations.

Other Societal Abuses and Discrimination.—There were no reports of societal violence or discrimination based on HIV/AIDS.

Incitement to Acts of Discrimination.—The government and government-supported militias actively promoted hatred and discrimination, using standard propaganda techniques to incite tribal violence.

Section 7. Worker Rights

a. The Right of Association.—Although the law provides for the right of association for economic and trade union purposes, the government denied this right in practice. The Trade Union Act established a trade union monopoly under the government. Only the government-controlled Sudan Workers Trade Union Federation, which consists of 25 state unions and 22 industry unions, can function legally; all other unions were banned.

Strikes were considered illegal unless the government granted approval, which has never occurred. In most cases employees who tried to strike were subject to employment termination; however, workers went on strike during the year and were not terminated.

On November 12, authorities reportedly arrested Sudan airways pilots after they participated in a strike.

In the south, on September 10, the SSPS reportedly beat doctors and nurses following a one-day strike.

b. The Right to Organize and Bargain Collectively.—The law denies trade unions autonomy to exercise the right to organize or to bargain collectively. The law defines the objectives, terms of office, scope of activities, and organizational structures and alliances for labor unions. The government's auditor general supervised union funds because they were considered public money.

There were credible reports that the government routinely intervened to manipulate professional, trade union, and student union elections.

Specialized labor courts adjudicated standard labor disputes, but the Ministry of Labor has the authority to refer a dispute to compulsory arbitration.

The law does not prohibit antiunion discrimination by employers.

There is one export processing zone, in Port Sudan, and it is exempt from regular labor laws.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, such practices continued.

Abduction, forced labor, and sexual slavery of women and children continued.

Although the government continued to deny that slavery and forced labor existed in the country, CEAWC acknowledged that abductions had occurred in the 1980s and 1990s and that not all abductees had since been freed.

The forcible recruitment of persons into armed groups continued (see section 1.g.).

d. Prohibition of Child Labor and Minimum Age for Employment.—Although mandated by the Interim National Constitution to protect children from exploitation, the government did not effectively do so, and child labor was a serious problem. The legal minimum age for workers was 18 years, but the law was not enforced in practice. Child labor in the agricultural sector was common. Children were engaged in shining shoes, washing cars, street vending, begging, herding animals, construction, and other menial labor.

The use of child soldiers, child trafficking, and child prostitution were problems (see sections 1.g. and 4).

The Ministry of Social Welfare, Women, and Child Affairs had responsibility for enforcing child labor laws; however, enforcement was ineffective.

In the south child labor laws were rarely enforced.

e. Acceptable Conditions of Work.—The minimum wage was 124 Sudanese pounds (\$53) per month, which did not provide a worker and family a decent standard of living. The Ministry of Labor, which maintained field offices in most major cities, was responsible for enforcing the minimum wage, which employers generally re-

spected. In the south civil service workers, including teachers, often worked for long periods without getting paid.

The law, which was generally respected, limits the workweek to 40 hours (five eight-hour days), with days of rest on Friday and Saturday. Overtime should not exceed 12 hours per week or four hours per day. There was no prohibition on excessive compulsory overtime.

Although the laws prescribe health and safety standards, working conditions generally were poor, and enforcement by the Ministry of Labor was minimal. The right of workers to remove themselves from dangerous work situations without loss of employment is not recognized.

In the south the Ministry of Labor and Public Services is responsible for monitoring health and safety standards for workers; however, it did not do so effectively.

SWAZILAND

Swaziland is an absolute monarchy, and King Mswati III has ultimate authority over the cabinet, legislature, and judiciary. The population was approximately 1.02 million, according to the 2007 census. There was a prime minister and a partially elected parliament, but political power remained largely with the king and his traditional advisors, the most influential of whom remained the queen mother. International observers concluded that parliamentary elections held in September 2008 did not meet international standards. The 2008 Suppression of Terrorism Act to silence dissent and ban certain political organizations remained in effect. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces committed abuses.

Human rights problems included inability of citizens to change their government; extrajudicial killings by security forces; mob killings; police use of torture, beatings, and excessive force on detainees; police impunity; arbitrary arrests and lengthy pretrial detention; arbitrary interference with privacy and home; restrictions on freedoms of speech and press and harassment of journalists; restrictions on freedoms of assembly, association, and movement; prohibitions on political activity and harassment of political activists; discrimination and violence against women; child abuse; trafficking in persons; societal discrimination against members of the lesbian, gay, bisexual, and transsexual community; discrimination against mixed-race and white citizens; harassment of labor leaders; restrictions on worker rights; and child labor.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The government and its agents did not commit any politically motivated killings; however, security force members committed extrajudicial killings and were responsible for several deaths during apprehension. Authorities claimed to have investigated cases, but officers were either cleared of wrongdoing, or results were not reported. No known action was taken against perpetrators.

On June 13, in Big Bend, members of the Royal Swaziland Police Service (RSPS) shot and killed Mjomane Msibi, a suspected drug dealer who reportedly tried to evade arrest.

On May 12, police shot and killed Sibusiso German Matsebula, a suspect in the killing of Sibusiso Mashaya.

On August 10, Umbutfo Swaziland Defense Force (USDF) soldiers patrolling in the Shiselweni region along the border with South Africa shot and killed Sonnboy Mthandeni Mamba, who was allegedly trying to smuggle a car into the country.

No action was taken against security force members responsible for the following 2008 killings: the January police killing of a suspected thief; the March and April killings of suspected car smugglers by USDF soldiers; and the killing of a suspected poacher in his home by the general manager of Mkhaya Private Game Reserve, who was accompanied by three police officers.

No action was taken in any of the 2007 killings perpetrated by security forces. During the year there were reports of killings by community police, volunteers with arrest authority under the supervision of a chief.

For example, on February 28, community police in Mahwalala attacked and killed a man with bush knives and machetes; the victim had allegedly beaten a security guard.

On July 1, community police and residents of Mpolonjeni beat to death Sibusiso Mtsetfwa, who was suspected of killing his girlfriend.

There were numerous reports of mob killings during the year. On February 12, the Times of Swaziland newspaper reported that a mob of seven Mhlalini residents in the Shiselweni region attacked and killed a man who was allegedly stealing bags of cement from the Sibovu Primary School. The matter was pending at the High Court at year's end.

On March 4, a mob attacked and killed a traditional healer from the Shiselweni region with bush knives and stones. The mob reportedly pushed the healer, who was suspected of stealing cattle to fund his sister's dowry, into his car, which they sprinkled with gasoline and set on fire.

No action was taken, nor was any expected, against persons who participated in 2008 and 2007 killings.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution prohibits such practices; however, the provision prohibiting law enforcement officials from engaging in torture is located in the “policy” section of the constitution and is not enforceable in any court or tribunal. The law does not specifically prohibit such practices. Security officials who engage in such practices may be punished, but no punishments were reported during the year, and only one case was investigated. Security officers reportedly used torture during interrogation, assaulted citizens, and used excessive force in carrying out their duties. Reported practices included beatings and temporary suffocation using a rubber tube tied around the face, nose, and mouth, or plastic bags around the head.

For example, Kuseni Hlophe alleged that police officers in January temporarily suffocated him with a rubber tube during interrogation to coerce a confession of murder.

In a May 5 High Court appearance, theft suspect Sibusiso Mdluli alleged that police officers beat him with machine guns, revolvers, and sticks and refused his request for medical attention.

In a July court appearance, suspects Thabo October Dlamini, Nganono Sabelo Manyatsi, Bheki Dlamini, Thulasizwe Ndlovu, and Sidumo Sikhondze alleged that five police officers based at the Mbabane police station had beaten them with a crowbar and temporarily suffocated them with a plastic bag. The presiding officer in the case ordered the police to take the five suspects to the hospital before taking them back to custody.

On September 4, police reportedly detained and tortured the head of the banned political group Swaziland Youth Congress (SWAYOCO) (see section 3).

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

No actions were taken, nor were any expected, against security force members responsible for 2007 abuse cases.

Despite numerous requests from civic organizations, the special commission's investigative report into the alleged 2005 torture of 17 political organization members had not been released by year's end; the report was submitted to the Prime Minister's Office in 2007.

There were credible reports of excessive force by community police during the year.

For example, on February 12, the Times of Swaziland newspaper reported that Mbhuleni community police officers tied a man of Mozambican origin with a chain and severely whipped him for allegedly taking payments from local residents for furniture that he did not deliver.

No action was taken against community police responsible for the following 2008 abuse cases: the April beating in detention of a 16-year-old girl; the August beating of five homeless children; or the September beating of Sifiso Vilakati.

Mob violence continued, and persons accused of rape were often severely beaten by community members.

On July 9, an angry mob in Nhlangano assaulted Sikhumbuzo Dlamini of Mhlalini for allegedly stealing a two-kilo package of chicken.

No action was taken, nor was any expected, against the perpetrators of 2008 and 2007 mob violence.

Prison and Detention Center Conditions.—Government prisons and detention centers remained overcrowded, and conditions generally were poor. According to the 2006-07 annual report issued by the Ministry of Justice, there were 2,829 prisoners in 12 correctional centers. Prison guards tortured and abused prisoners with impunity. The Swaziland Coalition of Concerned Civic Organizations (SCCCO) reported that physical punishment of prisoners and detainees was an accepted part of the culture and not viewed as a human rights problem.

Rape and consensual sex between prisoners contributed to the spread of HIV/AIDS. Correctional facilities had prevention programs and medical clinics, and prisoners were offered free HIV/AIDS testing, counseling, and antiretroviral treatment.

At Mawelawela, the only female detention facility, detainees were not held separately from convicts. Several children lived with their mothers in the facility. Female juveniles were also held in the women's correctional facility, although they slept in different quarters.

The government did not permit independent monitoring of prison conditions by local human rights groups or the media. International officials and NGOs working on programs to fight HIV infection were permitted frequent entry to prisons and detention centers. The government generally cooperated with international organizations and permitted visits by UN representatives; however, it denied Amnesty International (AI) and other groups access to a political prisoner (see section 1.e.).

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention; however, police arbitrarily arrested and detained numerous persons.

Role of the Police and Security Apparatus.—The king is the commander in chief and holds the position of minister of defense. He presides over a civilian principal secretary of defense and a commanding general.

The Royal Swaziland Police Service (RSPS), under the authority of the prime minister, is responsible for maintaining internal security. The USDF, which reports to the defense minister, is responsible for external security but also has domestic security responsibilities, including protecting members of the royal family. The principal secretary of defense and the army commander are responsible for day-to-day USDF operations. The RSPS and the USDF were generally professional, despite inadequate resources and bureaucratic inefficiency; however, both forces were susceptible to political pressure and corruption. The government generally failed to prosecute or otherwise discipline security officers accused of abuses. No independent body had the authority to investigate police abuses. An internal RSPS complaints and discipline unit investigated reports of police abuse but did not release results of its findings to the public. Some officers attended training programs outside the country.

Traditional chiefs supervise volunteer rural "community police," who have the authority to arrest suspects and bring them before an inner council within the chieftdom for trial. Traditional chiefs are required to hand over cases of serious crimes to the RSPS for further investigation; however, this did not always occur.

Arrest Procedures and Treatment While in Detention.—The law requires warrants for arrests, except when police observe a crime being committed, believe that a person is about to commit a crime, or conclude that evidence will be lost if arrest is delayed. Detainees may consult with a lawyer of their choice, but the government pays for defense counsel only in cases in which the potential penalty is death or life imprisonment. Detainees must be charged with the violation of a statute within a reasonable time, usually within 48 hours of arrest, or, in remote areas, as soon as the judicial officer appears; however, arresting authorities did not always charge detainees within that period. In general, detainees were promptly informed of the charges against them, and their families had access to them. There is a functioning bail system, and suspects can request bail at their first appearance in court, except in serious cases such as murder and rape.

Police arbitrarily detained opposition members and demonstrators, one of whom was charged under the 2008 Suppression of Terrorism Act (see sections 2.b. and 3).

Lengthy pretrial detention was common. In 2007 the International Center for Prison Studies found that 31 percent of the prison population consisted of pretrial detainees. Judicial inefficiency and staff shortages contributed to the problem, as did the police practice of prolonging detention to collect evidence and prevent detainees from influencing witnesses. In some cases persons were exonerated after years of repeated remands requested by police.

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary; however, the king, on recommendation of the Judicial Services Commission, appoints the judiciary, limiting judicial independence. Judicial powers are vested in two systems: one based on Roman-Dutch law, and the other based on a system of traditional courts that follows traditional law and custom. The Roman-Dutch judiciary consists of the Supreme Court, the High Court, and magistrate courts.

The Supreme Court, which is primarily composed of foreign-born judges but includes two Swazis, has appellate and supervisory jurisdiction over the High Court and magistrate courts. Some observers believed foreign justices increased the judiciary's credibility and independence, while others believed that reliance on foreign

professionals undermined the development of a strong national base of professional justices. Neither the Supreme Court nor the High Court, which interprets the constitution, has jurisdiction in matters concerning the office of the king or queen mother, the regency, chieftaincies, the Swazi National Council, or the traditional regiments system, all of which were governed by traditional law and custom (see section 2.a.).

Most citizens who encountered the legal system did so through the 13 traditional courts. Each has a president appointed by the king. Authorities may bring citizens to these courts for minor offenses and violations of traditional law and custom.

The public prosecutor has the legal authority to determine which court should hear a case, but police usually made the determination. Persons convicted in the traditional courts may appeal to the High Court. Prolonged delays during trials in the magistrate courts and High Court were common.

Military courts are not allowed to try civilians and do not provide the same rights as civil criminal courts. For example, military courts may use confessions obtained under duress as evidence and may convict defendants on the basis of hearsay.

Trial Procedures.—The constitution provides for the right to a fair public trial, except when exclusion of the public is necessary in the “interests of defense, public safety, public order, justice, public morality, the welfare of persons under the age of 18 years, or the protection of the private lives of the persons concerned in the proceedings.” The judiciary generally enforced this right in practice. Defendants enjoy a presumption of innocence, but juries are not used. Court-appointed counsel is provided at government expense in capital cases or if the crime is punishable by life imprisonment. Otherwise, defendants in superior and magistrate courts may hire counsel at their own expense. Defendants can question witnesses against them and present witnesses and evidence on their own behalf. Defendants and their attorneys have access to relevant government-held evidence, generally obtained during pretrial consultations with the Public Prosecutor’s Office. Defendants and prosecutors have the right of appeal, up to the Supreme Court.

The traditional courts serve the chiefs, who are appointed by the king, and have limited civil and criminal jurisdiction. They are authorized to impose fines of up to 100 emalangeni (\$13.50) and prison sentences of up to 12 months. Traditional courts are empowered to administer customary law only “insofar as it is not repugnant to natural justice or morality” or inconsistent with the provisions of any civil law in force; however, some traditional laws and practices violated civil laws and international treaties signed by the country, particularly those involving women’s and children’s rights. Defendants in traditional courts are not permitted formal legal counsel but may speak on their own behalf, call witnesses, and be assisted by informal advisors. Sentences are subject to review by traditional authorities and can be appealed to the High Court.

Political Prisoners and Detainees.—On September 21, the High Court dismissed for insufficient evidence the terrorism and sedition case against political prisoner Mario Masuku, the leader of the People’s United Democratic Movement of Swaziland (PUDEMO). Masuku, who had declined bail to pressure the government to bring his case to trial, had been detained since November 2008 on terrorism and sedition charges. During the year the government denied access to Masuku to AI, the Council of Swaziland Churches, the Swaziland Federation of Trade Unions, and a group of Danish students. The government allowed Masuku’s family and attorneys to visit; however, Mandla Mkwanazi, one of Masuku’s legal advisors, claimed he was forced to consult with his client over a fence and in a general visitation room without attorney-client privacy.

Civil Judicial Procedures and Remedies.—The judiciary, which has limited independence, tries civil as well as criminal cases, including suits for damages against government agents.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and law prohibit such actions except “in the interest of defense, public safety, public order, public morality, public health, town and country planning, use of mineral resources, and development of land in the public benefit”; however, the government did not always respect these prohibitions and broadly construed exceptions to the law. The law requires police to obtain a warrant from a magistrate before searching homes or other premises; however, police officers with the rank of subinspector or higher have the authority to conduct a search without a warrant if they believe that delay might cause evidence to be lost.

During the year the army conducted random checks for illegal immigrants, weapons, stolen vehicles, and evidence of other criminal activities through roadblocks and searches in homes. Police also entered homes and businesses without judicial authorization, including the home of Mario Masuku (see section 1.e.).

Police conducted physical surveillance of members of labor unions, political groups, religious groups, and others. For example, on May 11, police searched offices of the Foundation for Socioeconomic Justice and seized items. On June 12, mourners at the funeral of alleged bomber M.J. Dlamini complained of police surveillance. Comfort Mabuza of the nongovernmental organization (NGO) Media Institute in Southern Africa reported he was followed by police throughout the year.

In November 2008 the government issued an official declaration designating PUDEMO, the Swaziland Solidarity Network (SSN), SWAYOCO, and the Swaziland People's Liberation Army (UMBANE) as "specified entities" under the 2008 Suppression of Terrorism Act. Persons who abetted, aided, sympathized with, sheltered, or provided logistical support to these organizations were subject to arrest and prison terms of 25 years to life.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of speech and of the press, but the king may waive these rights at his discretion, and the government restricted these rights during the year. Although no law bans criticism of the monarchy, the prime minister and other officials warned journalists that publishing such criticism could be construed as an act of sedition or treason, and media organizations were threatened with closure for criticizing the monarchy. The law empowers the government to ban publications if they are deemed "prejudicial or potentially prejudicial to the interests of defense, public safety, public order, public morality, or public health." Most journalists practiced self-censorship.

The king may suspend the constitutional right to free expression at his discretion, and the government severely restricted freedom of expression, especially regarding political issues or the royal family. Individuals—and family members of individuals—who criticized the monarchy risked exclusion from the traditional regiments (chiefdom-based groupings of Swazi males dedicated to serving the king) patronage system that distributed scholarships, land, and other benefits. Traditional chiefs were obliged to punish offenders when matters were brought to their attention. During the year the prime minister warned journalists against making statements that could be interpreted as seditious.

During the year the foreign minister criticized foreign diplomats for speaking publicly about political matters and warned that they were not to interfere in the internal affairs of the country.

There were two daily newspapers, the independent Times of Swaziland and the Swazi Observer, which was owned by the king's investment company, Tibiyo Taka Ngwane. Both newspapers criticized government corruption and inefficiency but generally avoided criticizing the royal family. The Ministry of Public Service and Information periodically published the Swaziland Today newspaper. Private companies and church groups owned several newsletters and magazines.

In November 2008 the attorney general warned that journalists who criticized the government could be viewed as supporting terrorists and arrested under the Suppression of Terrorism Act (see section 2.b.). Journalists continued to be threatened, harassed, and assaulted during the year.

For example, on January 12, after being pressured by police and government authorities, former cabinet minister and Times of Swaziland columnist Mfomfo Nkambule publicly apologized to the king for a series of articles that criticized the monarchy. Prime Minister Sibusiso Dlamini had threatened to charge Mfomfo Nkambule and other media commentators under the 2008 Suppression of Terrorism Act. Nkambule, who at one point had been ordered to buy between four and six cows as a fine to appease the king, reported in his newspaper column that failure to pay the fine could result in the eviction of his family from their homestead. On April 27, the Times of Swaziland stopped publishing Nkambule's articles.

Journalists were called to the offices of the king, prime minister, and senate subcommittee for their reporting on political events or the royal family.

For example, on May 12, a senate subcommittee summoned Times of Swaziland editor Mbongeni Mbingo and other journalists for reporting about a verbal exchange between Senate President Gelane Zwane and Senator Ndileka Dlamini. Senators advised journalists that internal parliamentary discussions were private and raised the possibility of charging journalists with contempt of parliament.

On June 30, at the George Tums Hotel in Manzini, organizers of an HIV/AIDS workshop ejected journalists covering the event after members of parliament (MPs) complained of the press presence. Parliamentarians cited an incident in which an MP was publicly embarrassed after papers headlined his statement that HIV/AIDS patients should be branded on their buttocks.

In August Prime Minister Dlamini reportedly threatened to close media outlets if they reported on an August royal trip abroad; there was no domestic coverage of

the event. In August 2008 USDF soldiers assaulted Times of Swaziland journalists who were at the airport to cover the return of nine of the king's wives and their entourage from a lavish shopping spree abroad; soldiers also seized the journalists' cameras.

Journalists received anonymous telephone calls advising them not to pursue particular stories, and many of them complied. For example, freelance journalist and Times of Swaziland columnist Vusi Sibisi reported that he stopped writing after being told that a warrant for his arrest had been issued due to his articles that criticized the government and the monarchy.

Unlike in previous years, defamation laws were not used to restrict the press.

In March 2008 Speaker of the House Guduza, a brother of the king, sued the Times of Swaziland for two million emalangeni (\$270,000) for articles it published about his involvement with a company that allegedly illegally imported cigarettes worth 17 million emalangeni (approximately \$2.3 million). The case had not gone to trial by year's end.

In February 2008 the High Court awarded MP Marwick Khumalo a default judgment of 120,000 emalangeni (\$16,200); in July 2007 Khumalo had sued Bheki Makhubu, the editor of the private Nation magazine, for defamation after Makhubu wrote an article accusing Khumalo of corruption. However, on February 22, the High Court granted the Nation magazine an order for stay of execution, and the case remained pending at year's end.

The March 2007 defamation suit filed by MP Maqhawe Mavuso against the Swazi Observer newspaper remained pending at year's end; the Observer had included Mavuso's name in an article about an alleged assault.

There was one government-owned radio station and one independent radio station that broadcast religious programs and public information programs on issues such as HIV/AIDS; however, the government generally restricted media content, especially on government television and radio. There was one privately owned television station; however, the owner's mother was a daughter of the previous king, Sobhuza II, and the station's reporting favored the monarchy. The government-owned Swaziland Television Authority and radio stations were the most influential media in reaching the public, but neither generally broadcast news about antigovernment demonstrations or criticism by "progressives." Government broadcast facilities retransmitted some Voice of America and BBC news programs in their entirety.

Consumers freely purchased and used satellite dishes to receive signals and programming from independent South African and other international service providers.

Internet Freedom.—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Internet cafes existed in larger urban areas, but most citizens lived in rural areas. An estimated 4.1 percent of inhabitants used the Internet, according to International Telecommunication Union statistics for 2008.

Academic Freedom and Cultural Events.—Restrictions on political gatherings and the practice of self-censorship restricted academic freedom by limiting academic meetings, writings, and discussion on political topics. There were no government restrictions on cultural events.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The constitution provides for freedom of assembly; however, the government severely restricted this right during the year. The law requires police consent to hold political meetings, marches, or demonstrations in a public place. Authorities continued to withhold permission for meetings sponsored by groups such as the Congress of South African Trade Unions on grounds that they were not in the national interest or would "compromise peace, security, and stability of the country."

For example, on January 31, the city council of Manzini refused to give permission to the unregistered African United Democratic Party to hold a rally at Freedom Square to demand political reform.

On July 12, police stopped SWAYOCO, one of the four groups declared a "specified entity" under the Suppression of Terrorism Act, from holding a political meeting at the Caritas Center in Manzini. Police briefly detained four members of the organization for questioning.

On July 30, the Tshaneni police station commander told foreign students visiting from the political science department of the University of Kwazulu Natal to stop holding meetings or discussions while in the country.

Police attacked and forcibly dispersed demonstrators, although unlike in the previous year, there were no reports that police arrested union members and legal

strikers. No action was taken against police who used excessive force on demonstrators.

On February 28, police used teargas to disperse SWAYOCO members, six of whom were arrested and later released for proceeding with a banned rally; four demonstrators were injured.

On March 2, at the Kwaluseni Campus of the University of Swaziland, police fired teargas canisters to disperse university students protesting the introduction of a new school schedule.

On September 21, at Matsapha Prison, correctional officers beat journalists and members of PUDEMO and SWAYOCO, who were waiting for the release of political prisoner Mario Masuku (see section 1.e.). Two SWAYOCO members were seriously injured.

No action was taken against security force members who forcibly dispersed demonstrations in 2008.

Freedom of Association.—The constitution provides for freedom of association, but the government severely restricted this right during the year. The constitution does not address the formation or role of political parties, and a 2006 High Court appeal to the 1973 ban on political parties had not been heard by year's end. However, in a September 2008 affidavit, the former prime minister reiterated that political parties were banned, and in November 2008 Prime Minister Dlamini issued an official declaration designating PUDEMO, SWAYOCO, the SSN, and UMBANE as "specified entities" under the Suppression of Terrorism Act. The act, which was first used following the September 2008 detonation of a bomb near one of King Mswati's palaces, provides that persons or groups found associating with any of the four illegal groups can be sentenced to prison terms of 25 years to life. According to the attorney general, persons or groups that abet, aid, sympathize with, shelter, or provide logistical support to these organizations invite the "wrath of the law."

The government harassed and detained opposition members and conducted surveillance on members of labor unions, political groups, and groups considered potentially political (see sections 1.f. and 3).

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

New religious groups or churches are expected to register with the government, and there were no reports that any groups were denied registration during the year.

Government permission was required for the construction of new religious buildings. Non-Christian groups sometimes experienced minor delays in obtaining permits from the government. The government-owned television and radio stations did not permit non-Christian religious groups to broadcast, although news of events in the Muslim world, such as Ramadan, did appear.

Societal Abuses and Discrimination.—Relations between religious groups were generally amicable, although church-related land disputes and rivalry between branches of some sects resulted in occasional violence. There were no developments in the 2008 case involving fighting between rival church groups that resulted in two deaths.

The Jewish community comprised less than 1 percent of the population, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. It also states that provisions of law and custom, which impose restrictions on the freedom of any person to reside in the country, shall not contravene the freedom granted by the constitution.

By traditional law and custom, chiefs have power to decide who lives in the chiefdom, and evictions due to internal conflicts, alleged criminal activity, or opposition to the chief occurred.

Non-ethnic Swazis sometimes experienced lengthy processing delays when seeking passports and citizenship documents, in part due to the country's history when mixed race and white persons were not considered legitimate citizens.

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

Protection of Refugees.—The country is a party to the 1951 Convention relating to the Status of Refugees, the 1967 Protocol relating to the Status of Refugees, and the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. Its laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. In practice, the government provided protection against the expulsion or return of refu-

gees to countries where their lives or freedom would be threatened. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and minimal assistance to refugees and asylum seekers.

The government accepted refugees for permanent resettlement, allowed them to compete for jobs, and granted them work permits and temporary residence permits without discrimination. The government also provided refugees with free transportation twice a week to buy food in local markets and to earn a living. Refugees who lived in the country more than five years qualified for citizenship; however, most refugees applied after extended periods of time in the country, including more than 10 years, due to lack of information regarding their immigration status.

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

Citizens could not change their government peacefully, and political parties were banned. The king retains ultimate executive and legislative authority; parliament has limited authority. Legislation passed by parliament requires the king's consent to become law. Under the constitution, the king selects the prime minister, the cabinet, two-thirds of the Senate, 10 of 65 members of the House, many senior civil servants, the chief justice and other justices of the superior courts, members of commissions established by the constitution, and the heads of government offices. On the advice of the prime minister, the king appoints the cabinet from among MPs. The constitution states that the king is required to consult with others (usually a traditional council) before exercising a major decision; however, he is not required to accept their advice.

Following the September 2008 detonation of a bomb near the king's residence, Prime Minister Dlamini issued a declaration designating PUDEMO, SWAYOCO, the SSN, and UMBANE as "specified entities" under the Suppression of Terrorism Act (see section 2.b.). Persons found associating with any of the organizations faced prison terms of 25 years to life.

Elections and Political Participation.—In September 2008 parliamentary elections were held, the first since the constitution went into effect in 2006; the king appointed a new government in October 2008. International observers concluded that the elections did not meet international standards. Political parties were not allowed to register or sponsor candidates. Ballots were cast in secrecy but could be traced by registration number back to voters, and some ballot boxes were not properly protected. Accusations of bribery were reported. There were widespread reports that citizens were advised that if they did not register to vote, they would no longer receive government services.

During the year the High Court ruled that the SCCCO did not have legal standing to sue the Electoral and Boundaries Commission (EBC), which draws district boundaries, commissions civic education and voter registration programs, and publishes postelection reports. In 2008 the SCCCO sued the EBC on the grounds that its five members—all of whom were chosen by the king—did not meet the constitutional requirements for independence, diversity, and relevant qualifications.

When the new constitution took effect, the 1973 decree that banned political parties lapsed; the constitution provides for freedom of association but does not address political parties. In 2006 the minister of justice and constitutional affairs stated that political organizations could hold meetings at "tinkhundla" (local government) centers if they obtained permission from the regional administrator and allowed a police officer to attend the meeting. However, political and civic organizations reported problems with traditional authorities when they requested permission to meet.

The constitution also states that candidates for public office must compete on their individual merit, thereby blocking competition based on political party affiliation.

On September 4, police reportedly detained and tortured Wandile Dlodlu, head of the banned political group SWAYOCO, for allegedly making seditious statements during a border blockade sponsored by a South African labor union. Dlodlu claimed police also questioned him about a plot to smuggle weapons and explosives into the country to bomb buildings and kill influential politicians and royalty. Police reportedly took Dlodlu to a forest, threatened him with death, and over a period of approximately two hours used plastic bags to temporarily suffocate him during interrogation. According to reliable sources, police had no information tying Dlodlu to the plot and did not follow up on weapons locations Dlodlu provided under torture, even though one location was within two miles of the police station. Dlodlu subsequently recanted his statements. An investigation was ongoing at year's end.

The government harassed and arrested opposition members and raided the offices of opposition groups.

On May 9, in the Malkerns area, police raided the houses of Samson and Sabelo Ndlangamandla and seized materials relating to banned political entities PUDEMO and SWAYOCO.

On May 11, in Manzini, police raided the offices of the Foundation for Socio-economic Justice and confiscated PUDEMO t-shirts, a digital video of a PUDEMO meeting, and a program for the May worker's day celebration.

Chiefs are custodians of traditional law and custom and are responsible for the day-to-day running of their chiefdoms and for maintaining law and order. Chiefs act as overseers or guardians of families within the communities. They are an integral part of society and traditionally report directly to the king. Local custom mandates that chieftaincy is hereditary. However, the constitution, while recognizing that chieftaincy is "usually hereditary and is regulated by Swazi law and custom," also states that the king "can appoint any person to be chief over any area." As a result, many chieftaincies were nonhereditary appointments, which provoked land disputes, especially at the time of burials.

The constitution provides that 55 of the 65 seats of the House of Assembly be popularly contested and that the king appoint the remaining 10 members. Five of the 10 must be women, and the other five must represent "interests, including marginalized groups not already adequately represented in the House." In 2008 the king appointed two women in the House of Assembly, instead of the required five, a constitutional violation that was not rectified during the year. The constitution also provides for an additional woman from each of the four regions if women do not constitute a third of the total members, nominated by the elected house members from each region, but the House had not nominated these members by year's end. In December EBC chairman Chief Gija Dlamini stated that there was no space in parliament to seat female regional members and that the constitutional requirement could not be fulfilled until parliament was physically expanded.

The king appoints 20 members of the 30-seat Senate, and the House of Assembly elects the other 10. The constitution provides that at least eight of the king's nominees and five of the House of Assembly's nominees to the Senate be women. While House members elected the required five female members, the king had appointed only seven female senators, rather than the eight required. The king had not rectified this constitutional violation by year's end. Women held 20 percent, rather than the mandatory 30 percent, of parliamentary seats. The king appointed five women as cabinet ministers.

Widows in mourning (for periods that can vary from one to three years) were prevented from appearing in certain public places or in close proximity to the king. As a result, widows were effectively excluded from voting or running for office during those periods.

There were almost no ethnic minorities in the government. The constitution provides that other appointees should represent "interests, including marginalized groups not already adequately represented in the House." However, most officials were from the royal Dlamini family or connected with royalty.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. There was a widespread public perception of corruption in the executive and legislative branches of government and a general consensus that the government was doing little to combat it. The Coordinating Assembly for Nongovernmental Organizations estimated that 45 million emalangeni (\$6 million) in potential government revenue is lost each month due to corruption. The World Bank's most recent Worldwide Governance Indicators reflect that corruption was a serious problem.

The Anticorruption Commission (ACC), which is funded by the Ministry of Justice and was officially launched in September 2008, has the power to investigate cases, gather evidence, and arrest individuals for failure to respond to ACC requests. During the year it received 20 to 30 cases each month; however, no ACC case had resulted in conviction by year's end. ACC commissioner Justice H.M. Mtegha attributed the commission's ineffectiveness to lack of training, inadequate staff, shortage of judges in the judiciary, and the general backlog of cases in the court system.

Credible reports continued that business contracts, government appointments, military recruitment, and school admissions were awarded on the basis of the owners' relationship with government officials. Authorities rarely took action when incidents of nepotism were reported.

For example, on May 16, the media reported that despite numerous reports to police, including the identity of the embezzler, no arrests were made in the embezzlement of 150,000 emalangeni (\$20,300) at Hlathikhulu Government Hospital.

During the year the director of public prosecutions dropped the corruption case against government official Maswazi Shongwe and Senator Thandi Maziya, who were arrested and charged with fraud in February 2008. No reason was provided.

According to April 2008 media reports, Clifford Mamba, the principal secretary of the Ministry of Foreign Affairs and Trade, testified before parliament's Public Accounts Committee that Prince David, the former minister of justice and constitutional affairs, simultaneously received a salary as cabinet minister and as the country's ambassador to Denmark. The Ministry of Foreign Affairs asked the Attorney General's Office to intervene after Prince David refused to reimburse the government more than 430,000 emalangenani (\$58,100); however, no action had been taken by year's end.

The nine suspects released on bail in 2007, including the former principal secretary of the minister of finance and other individuals closely associated with the king, were still awaiting trial at year's end for spending 50 million emalangenani (\$6.7 million) on a business training exercise for which the government had allocated only 10 million emalangenani (\$1.3 million).

The constitution prohibits government officials from assuming positions in which their personal interest is likely to conflict with their official duties. These officials are required to declare their assets and liabilities to the Integrity Commission within six months of its establishment; however, the Integrity Commission is under the Commission on Human Rights and Public Administration, which had not been established until September. In December news organizations reported that the prime minister declared his assets to the commission; however no other officials had declared their assets and liabilities by year's end.

There is no law permitting public access to government documents, and public documents were difficult to access.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases; however, government officials were rarely responsive to their views. Among the active groups were the Swaziland Action Group Against Abuse, Lawyers for Human Rights of Swaziland, and Women and Law in Southern Africa. Human rights groups spoke out on a number of occasions, criticizing the lack of accountability and transparency in the government.

The constitution provides for the independence of human rights NGOs; however, this provision falls within the "policy" section, which cannot be enforced in any court or tribunal.

On June 3, police arrested on sedition charges Thulani Maseko, the coordinator for the local NGO Human Rights Swaziland and one of the lawyers for political prisoner Mario Masuku. During May 1 celebrations, Maseko reportedly expressed support for the two "freedom fighters" who died in September 2008 when a bomb in their car prematurely detonated under the Lozitha bridge near the royal palace. Authorities later released Maseko on bail, and his case remained pending at year's end.

In September the government established the Commission on Human Rights and Public Administration; the commission is precluded from investigating any matter "relating to the exercise of any royal prerogative by the Crown." The constitution provides that the commission be established no later than 2007.

The government generally cooperated with international organizations and permitted visits by UN representatives; however, it denied AI and other groups access to a political prisoner (see section 1.e.).

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on race, sex, disability, age, ethnicity, religion, political opinion, or social status; however, the government did not consistently enforce the law.

Women.—The law criminalizes rape, including spousal rape; however, rape was common, and the government did not always enforce the law effectively. According to the 2008 RSPS Annual Report, 770 rape cases were reported in 2008. Many men regarded rape as a minor offense, despite it being against the law. A sense of shame and helplessness often inhibited women from reporting such crimes, particularly when incest was involved. The maximum sentence for aggravated rape is 15 years; however, the acquittal rate for rape was high, and sentences were generally lenient.

Domestic violence against women, particularly wife beating, was common and sometimes resulted in death. According to a survey conducted in 2008 by the government's Central Statistics Office, 60 percent of men believed it was acceptable to

beat their wives, and 18 percent of females between 13 and 44 years old had contemplated suicide, primarily as a result of domestic violence. The special police units established in 2008 for domestic violence, child abuse, and sexual abuse reported an increase in cases received during the year, compared to cases reported to the police previously.

Women have the right to charge their husbands with assault under both the Roman-Dutch and traditional legal systems, and urban women frequently did so, usually in extreme cases when intervention by extended family members failed to end such violence. Penalties for men found guilty of assault not involving rape against a woman depended on the court's discretion. Rural women often had no relief if family intervention did not succeed because traditional courts were unsympathetic to "unruly" or "disobedient" women and were less likely than modern courts to convict men of spousal abuse. The Roman-Dutch legal system often gave light sentences in cases of abuse against women. The NGO Swaziland Action Group Against Abuse has hotlines and shelters to assist victims of abuse.

Prostitution is illegal but prevalent. Enforcement of laws against prostitution was inconsistent, particularly near industrial sites and military bases.

Legal provisions against sexual harassment were vague, and government enforcement was ineffective; no cases have been brought to court. There were frequent reports of sexual harassment, most often of female students by teachers. Numerous teachers and some principals were fired during the year for inappropriate sexual conduct with students, who were threatened with poor grades if they did not provide sexual favors to teachers.

The government upheld the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children, and to have the information and means to do so free from discrimination, coercion, and violence. Access to contraception was broad, including at public restrooms, clinics, and workplaces throughout the country. Women were equally diagnosed and treated for sexually transmitted infections, including HIV. Skilled attendance during childbirth, including essential obstetric and postpartum care, was limited in rural areas.

Women occupied a subordinate role in society. The dualistic nature of the legal system complicated the issue of women's rights. Since unwritten law and custom govern traditional marriage and matters of inheritance and family law, women's rights often were unclear and changed according to where and by whom they were interpreted. Couples often married in both civil and traditional ceremonies, creating problems in determining which set of rules applied to the marriage and to subsequent questions of child custody, property, and inheritance in the event of divorce or death.

The constitution provides that women can open bank accounts, obtain passports, and take jobs without the permission of a male relative; however, these constitutional rights often conflicted with customary law, which classifies women as minors. Women routinely executed contracts and entered into a variety of transactions in their own names; however, banks still refused personal loans to women without a male guarantor. The constitution provides for equal access to land; however, customary law forbids women from registering property in their own names. The law requires equal pay for equal work; however, the average wage rates for men by skill category usually exceeded those of women. Several existing acts reportedly require amendments to bring them into line with the constitution, including the Marriage Act, the Administration of Estates Act, and the Deeds Registry Act.

During the year female attorney Mary-Joyce Doo Aphane sued the government to compel it to overturn Section 16(3) of the Deeds Registry Act, which prohibits women from registering property in their own names. Arguing that the Deeds Registry Act interfered with constitutional provisions for female equality, Aphane noted that despite constitutional provisions voiding laws in conflict with constitutional clauses, no such laws had been amended or suspended by year's end.

In traditional marriages a man may take more than one wife. A man who marries a woman under civil law may not legally have more than one wife, although in practice this restriction was sometimes ignored. Traditional marriages consider children to belong to the father and his family if the couple divorce. Children born out of wedlock are viewed as belonging to the mother unless the father claims the child. Inheritances are passed to and through male children only. Traditional authorities still exercise the right to fine women for wearing pants.

The constitution states that "a woman shall not be compelled to undergo or uphold any custom to which she is in conscience opposed"; however, adherents of traditional family practices may treat a woman as an outcast if she refuses to undergo the mourning rite, and a widow who does not participate risks losing her home and inheritance. When the husband dies, his widow must remain in strict mourning for one month, during which time she cannot leave the house, and the husband's family

can move into the homestead and take control of its operations. In some cases the mourning period can last for years. During the year the media reported that widows and children heading households sometimes became homeless as a result of the custom and were forced to seek public assistance, a development exacerbated by the country's high rate of HIV/AIDS. The 2006-07 Demographic and Health Survey found that 6 percent of women between 15 and 49 years of age were widows, half of whom had been dispossessed of property.

In 2008 Nhlanguano election officials refused to allow widows in mourning to register to vote.

Children.—Under the constitution, children derive citizenship from the father, unless the birth occurred outside marriage and the father does not claim the child, in which case the baby acquires the mother's citizenship. A foreign woman who marries a citizen can become a citizen by lodging a declaration with the proper authorities. If a Swazi woman marries a foreign man, however, even if he has become a naturalized citizen, their children are assumed to carry the father's birth citizenship. Birth registration is not automatic, and lack of birth registration can result in denial of public services.

Government efforts to protect children's rights and welfare were inadequate, due in part to the growing number of orphans and vulnerable children (OVC), which made up an estimated 10 percent of the population.

Despite a constitutional mandate that children be provided free primary education by 2009, the government did not provide free, compulsory education for children. The government paid textbook costs for first through seventh grade students, while the student paid varying school fees and contributed to the building fund. Students were sent home if their families did not pay school fees. However, during the year the Ex-Miners' Association sued the government to obtain free primary education on behalf of the country's children, and on March 25, the court ruled in favor of the association. As a result, the government began registering first and second grade students for the 2010 term and is required to pay all tuition, fees, and books for those grades. The Ex-Miners' Association filed a second suit during the year after the government announced its plan to implement free education gradually; the government claimed it could not afford to implement free primary education immediately.

The Ministry of Education received an annual budget allocation to pay school fees for OVCs in primary and high school; however, some schools continued to complain of delayed payment and expelled OVCs for nonpayment of fees. Supplemental money sometimes had to be raised for building maintenance, including teachers' housing. Rural families favored boys over girls if they could not send all their children to school. Principals and teachers routinely demanded bribes to admit students.

Child abuse, including rape of children and incest, was a serious problem, but the crime was rarely reported, the government seldom punished perpetrators of abuse, and penalties seldom matched the crime. Many children became HIV positive as a result of rape. A study released by the UN Children's Fund in April 2008 found that one in three women in the country has suffered some form of sexual abuse as a child and that one in four experienced physical violence. Most sexual assaults of girls occurred at home, and fewer than half of sexual assaults were reported. Disabled children, children out of school, and orphans were at particular risk. Punishment for child abuse was minimal, and even the perpetrators of abuse that resulted in death were generally fined no more than 200 emalangenis (\$27).

Corporal punishment by teachers and principals is legal and routinely practiced. School regulations state that a teacher can administer a maximum of four strokes on the buttocks to a student younger than 16, and six strokes for students older than 16; however, teachers often exceeded this limit with impunity. For example, on February 4, a teacher beat a girl for not spreading her legs fully during physical education exercises, reportedly causing the girl permanent kidney damage. On February 9, the media reported that the head teacher and the mathematics teacher at Velebantfu High School gave a 15-year-old pupil 20 lashes, 10 on each buttock, as punishment for missing morning studies and not doing his mathematics homework. Authorities made no arrests in either case.

On March 7, the Swazi Observer reported that a nine-year-old pupil of Kuhlankeni Primary School died as a result of a severe beating administered by a teacher. A commission of inquiry was established to investigate the case; however, no action had been taken against the teacher by year's end.

The legal age of marriage is 18 for both men and women. However, with parental consent and approval from the minister of justice, girls can marry at age 16. The government recognized two types of marriage: civil marriage and marriage under traditional law and custom. Traditional marriages can be with girls as young as 14.

Critics of the royal family said the king's many wives and young fiancées, some of whom were 16 years old, set a poor example in a country with an HIV/AIDS prevalence of 42 percent among persons between 15 and 49 years of age.

During the year there were reports of forced marriages involving underage girls. For example, on January 2, a 16-year-old pupil from Ekuvinjelweni was taken to a homestead where she was married by force in traditional rites to Enock Mncina. On July 12, a 16-year-old pupil from Magojela was forced to enter into a traditional marriage with Samuel Dladla of Gege.

There were reports that girls, particularly OVCs, worked as prostitutes. There is no law that specifically prohibits child prostitution. Penalties for child pornography are six months' imprisonment and/or a fine of 100 emalangen (R13.50). The law sets the age of sexual consent at 16 years and prohibits the sexual exploitation of children less than 16 years of age, which is considered statutory rape. The penalty for statutory rape is six years' imprisonment and/or a fine of 1,000 emalangen (R133).

With the help of local communities, police during the year closed two brothels in Mbuleni, where 35 girls from seven to 14 years old were trading sex for meals or alcohol provided by their pimps or clients.

During the year the numbers of street children in Mbabane and Manzini continued to grow. A large and increasing number of HIV/AIDS orphans were cared for by aging relatives or neighbors, or they struggled to survive in child-headed households. Some lost their property to adult relatives. Various governmental, international, and religious organizations and NGOs provided some assistance to HIV/AIDS orphans.

With more than 10 percent of households headed by children, UNICEF supported school feeding programs, operated a number of neighborhood care points, and provided nutritional support to children weakened by AIDS.

Trafficking in Persons.—On November 10, the king assented to the People Trafficking and People Smuggling (Prohibition) Act, which prohibits trafficking in persons and became law in December, when it was published in the government gazette; however, Swaziland was a source, destination, and transit country for women and children trafficked for the purpose of commercial sexual exploitation, domestic servitude, and forced labor in agriculture.

Swazi girls, especially orphans, were trafficked for commercial sexual exploitation and domestic servitude in Mbabane and Manzini, as well as to South Africa and Mozambique. Swazi boys were trafficked for forced labor in commercial agriculture and market vending. Some Swazi women were forced into prostitution in South Africa and Mozambique after voluntarily migrating there to look for work. Chinese organized crime units trafficked victims from Swaziland to hubs in Johannesburg, South Africa, where they were distributed locally or sent to be exploited overseas. Traffickers forced Mozambican women into prostitution in Swaziland, or transited the country with their victims to South Africa. Mozambican boys migrated to Swaziland to wash cars, herd livestock, and work as porters; some later became victims of trafficking.

The new law provides a penalty of up to 25 years' imprisonment for convicted traffickers, who also are required to pay a fine to the victim in an amount determined by the court; the penalty for profiting from exploiting a trafficking victim is up to 15 years' imprisonment and a fine of up to 800,000 emalangen (R106,000).

There were no known investigations or prosecutions of trafficking cases during the year.

No government agency is specifically responsible for combating trafficking in persons or maintaining records distinguishing trafficked persons from other illegal immigrants or refugees. However, in July the prime minister appointed a taskforce made up of officials from various ministries as well as representatives from NGOs and the UN to develop and begin implementation of a national strategy to fight human trafficking. The antitrafficking taskforce reviewed legislation, developed an action plan, and began documenting cases of human trafficking. In August the government began a campaign to raise public awareness of the issue.

The State Department's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The constitution provides protection for persons with disabilities, but does not differentiate between physical and mental disabilities, and requires parliament to enact relevant implementing legislation. However, parliament had not passed laws to prohibit discrimination against persons with disabilities in employment or to provide access to health care or other state services by year's end. Persons with disabilities have complained of government neglect. There are no laws that mandate accessibility for persons with disabilities to buildings, transportation, or government services, although government buildings under con-

struction included some improvements for those with disabilities, including access ramps.

There is one school for the deaf and one special educational alternative school for children with physical or mental disabilities. Only 25 percent of adults with disabilities were employed, mostly in the private sector, according to a 2006 study conducted by the Ministry of Health and Social Welfare. In 2006 the minister for Enterprise and Employment found that of 10,600 visually impaired persons in the country, only three were employed. Despite the former minister's 2006 pledge to introduce a bill compelling employers to create specific jobs for the visually impaired, no bill had been introduced by year's end. The hospital for persons with mental disabilities in Manzini was overcrowded and understaffed.

In October 2008 a visually impaired man was appointed as a senator, marking the first time a person with disabilities served in parliament.

National/Racial/Ethnic Minorities.—The constitution forbids discrimination on the grounds of race, color, ethnic origin, tribe, or birth; however, governmental and societal discrimination was practiced against non-ethnic Swazis, generally white persons and persons of mixed race. Although there were no official statistics, an estimated 2 percent of the population was non-ethnic Swazi. Non-ethnic Swazis experienced difficulty in obtaining official documents, including passports, and suffered from other forms of governmental and societal discrimination, such as needing special permits or stamps to buy a car or house, delays in receiving building permits for houses, and difficulties in applying for a bank loan.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Societal discrimination against the lesbian, gay, bisexual, and transgender community (LGBT) was prevalent, and LGBT persons generally concealed their sexual preferences. Gays and lesbians who were open about their sexual orientation and relationships faced censure and exclusion from the chieftdom-based patronage system, which could result in eviction from one's home. Chiefs, pastors, and members of government criticized homosexual conduct as neither Swazi nor Christian.

Other Societal Violence or Discrimination.—There was a social stigma associated with being HIV positive, which discouraged persons from being tested. Nevertheless, there were often long lines of persons waiting to be tested during prevention campaigns, especially among the young. The military encouraged testing and did not discriminate against those testing positive.

On July 5, in Lomahasha, a man assaulted his HIV-positive sister for using a family toilet, which the man believed would result in other family members becoming infected.

Section 7. Worker Rights

a. The Right of Association.—The constitution and law provide that workers have the right to form and join associations of their choice, including trade unions, without previous authorization or excessive requirements, and workers exercised this right in practice, with some exceptions. Employees in essential services, which included police and security forces, correctional services, firefighting, health, and many civil service positions, may not form unions. Unions must represent at least 50 percent of employees in a work place to be automatically recognized; otherwise, recognition is left to the discretion of employers. Approximately 80 percent of the formal private sector was unionized. The law allows unions to conduct their activities without government interference.

In May the government forced the Swaziland Association of Government Secretaries to cancel its May 19 meeting. The government justified its action by noting that the association had not been officially recognized, was not unionized, and could not collectively bargain; the association responded that it could not make progress in those areas unless it was allowed to meet.

The law does not specifically permit strikes, but it allows employees who are not engaged in essential services to participate in peaceful protest action to promote their socioeconomic interests.

Unlike in the previous year, there were no reports that police detained union leaders; however, government officials intimidated union leaders. For example, on May 6, police officers searched the house of Alex Fakudze, president of the Swaziland Manufacturing and Allied Workers Union, for copies of comments he made during the May 1 celebration.

The procedure for announcing a protest action requires advance notice of at least 14 days. The law details the steps to be followed when disputes arise and provides penalties for employers who conduct unauthorized lockouts. When disputes arose with civil servant unions, the government often intervened to reduce the chances

of a protest action, which may not be called legally until all avenues of negotiation have been exhausted and a secret ballot of union members has been conducted.

Unlike in the previous year, there were no reports that police detained, shot, beat, or used tear gas against persons engaged in labor protests; however, police restricted protest actions. For example, on February 2, at Sibetsamoya, approximately 25 armed police officers were deployed to Chuan Yi paper factory to ensure that 28 employees who had engaged in a legal protest action returned to work.

There were no reports that union leaders were ordered to surrender their travel documents after attending meetings abroad.

b. The Right to Organize and Bargain Collectively.—The constitution and law provide for the right to organize and bargain collectively, and the government generally respected this right in practice. However, employer interference with representatives of workers' councils trying to negotiate rules and conditions of work contributed to the failure of some trade unions to negotiate or promote collective bargaining agreements.

The law prohibits antiunion discrimination; however, such discrimination continued to occur. In the case of unfair dismissal, the court can order reinstatement and compensation for the employee, as well as fine the employer. Union leaders made credible charges that private sector management in various industries dismissed workers for union activity, but no cases were pursued through the courts. Other concerns identified by unions were undefined hours of work and pay days, assaults on workers by supervisors, surveillance by hired security officers of trade union activity, both at the workplace and outside, and the use of workers' councils stacked with employer-picked representatives to prevent genuine worker representation. Allegations of antiunion discrimination were most common in the mostly foreign-owned garment sector.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The constitution and law prohibit forced or compulsory labor, including by children; however, there were reports that such practices occurred. The Swaziland Federation of Trade Unions characterized the 1998 Administrative Order as a form of forced labor, noting that it reinforced the tradition of residents performing uncompensated tasks for chiefs, who could penalize those who did not participate. Victims of forced labor included women and children forced into commercial sexual exploitation, domestic servitude, agricultural labor, and market vending.

d. Prohibition of Child Labor and Minimum Age for Employment.—The constitution and law prohibit child labor; however, such laws were not always enforced, especially outside the formal work sector, and child labor was a problem. The law prohibits hiring a child younger than 15 in an industrial undertaking, except in cases where only family members were employed in the firm, or in technical schools where children worked under supervision. However, children joined the workforce early to survive or support their families. The law limits the number of night hours that children may work on school days to six and the overall hours per week to 33.

Employment of children in the formal sector was not common, but children were found doing unpaid labor and often exposed to harsh conditions of work. In rural areas, children below the minimum age frequently worked in the agricultural sector, particularly in the eastern cotton-growing region, and as domestic laborers and herder boys. Children reportedly worked in towns as traders, hawkers, porters, car wash attendants, and bus attendants. Minors were reportedly victims of prostitution and trafficking.

The Ministry of Labor and Social Security was responsible for enforcement, but no officials were specifically designated to deal with child labor, and the ministry's effectiveness was limited.

e. Acceptable Conditions of Work.—The Ministry of Labor and Social Security sets wage scales for each industry. There was a legally mandated sliding scale of minimum wages depending on the type of work performed. The minimum monthly wage for a domestic worker was approximately 300 emalangeni (\$40), for an unskilled worker 420 emalangeni (\$57), and for a skilled worker 600 emalangeni (\$81). In July the government agreed to a 12 percent civil service pay increase across the board, which was backdated to April. These minimum wages did not provide a decent standard of living for a worker and family. Migrant workers were not covered under minimum wage laws. Wage arrears, particularly in the garment industry, were a problem. The minimum wage laws did not apply to the informal sector, where most workers were employed.

There was a standard 48-hour workweek for most workers and a 72-hour workweek for security guards; however, public transport workers complained that they were required to work for 12 hours a day or more without any overtime compensa-

tion. The law permits all workers at least one day of rest per week and provides for premium pay for overtime. Most workers received a minimum of 12 days of annual leave. Workers receive 14 days of sick leave with full pay and 14 days with half pay after three months of continuous service; these provisions apply only once per calendar year. No sick leave is granted if an injury results from an employee's own negligence or misconduct. These standards do not apply to foreign and migrant workers. The labor commissioner conducted inspections in the formal sector, and the ministry had filed suits for labor violations against three companies by year's end.

The constitution calls on parliament to enact new laws to protect a worker's right to satisfactory, safe, and healthy employment conditions; however, parliament had not enacted any such laws by year's end. The law provides for some protection of workers' health and safety. The government set safety standards for industrial operations and encouraged private companies to develop accident prevention programs; however, the Labor Commissioner's Office conducted few safety inspections because of staffing deficiencies and an alleged desire not to "scare off foreign investors." Workers have no legal right to remove themselves from dangerous workplaces without jeopardizing their continued employment, and collective bargaining agreements do not address the matter.

There were extensive provisions allowing workers to seek redress for alleged wrongful dismissal, and these provisions frequently were invoked during the year.

TANZANIA

The United Republic of Tanzania, with a population of approximately 41 million, is a multiparty republic consisting of the mainland and the Zanzibar archipelago, whose main islands are Unguja and Pemba. The union is headed by a president who is also head of government; its unicameral legislative body is the National Assembly (parliament). Zanzibar, although integrated into the country's governmental and party structure, has its own president, court system, and legislature, and exercises considerable autonomy. In the 2005 union presidential and legislative elections, Jakaya Kikwete was elected president, and the ruling Chama Cha Mapinduzi party (CCM) made significant gains in parliament. Observers considered the union elections on both the mainland and in Zanzibar to be largely free and fair. The 2005 elections for president of Zanzibar were more contentious, however, with serious irregularities and politically motivated violence. While the civilian government generally maintained effective control of the security forces, there were instances in which elements of the security forces acted independently of government authority.

There were a number of human rights problems. Police and prison guards used excessive force against inmates and suspects, and police impunity was a problem. Prison conditions were harsh and life threatening. Police corruption and violation of legal procedures were problems, and the judiciary was corrupt and inefficient. The government partially limited freedom of speech and press, especially in Zanzibar. Government corruption remained a problem, and authorities restricted the movement of refugees. Societal violence against women and persons with albinism and women persisted. Female genital mutilation (FGM), especially of young girls, continued to be practiced. Trafficking in persons and child labor continued.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—Neither the government nor its agents committed any politically motivated killings; however, on occasion security forces killed civilians during the year.

In May the inspector general of police warned his officers not to use lethal force; however, on several occasions security forces used such force against citizens in custody and during pursuit.

For example, on March 27, police shot and killed a taxi driver in Dar es Salaam after mistaking him for a robber. Bystanders told reporters that the taxi driver was taking a client home when police shot and killed him. Police investigated the case and turned the file over to prosecutors, who dropped all charges. However, the officer died in custody of natural causes before he could be released.

In July a Dar es Salaam family accused police of torturing and killing their relative, Rashidi Tuga, after arresting him at his home. According to a postmortem report, the body had marks on the neck, and the head was swollen. The inspector general of police appointed a seven-member team to investigate the killing. At year's end results of the investigation had not been released.

The Tabora Senior State Attorney's investigation into the January 2008 beating to death of 16-year-old James Deus while in police custody continued. The suspect remained in custody at year's end.

A total of 15 police officers allegedly involved in the shooting deaths of three gemstone dealers and a taxi driver near Dar es Salaam in 2006 were acquitted of murder charges in August due to lack of evidence.

A number of deaths resulted from mob violence, including by stoning, beating, hacking with machetes, and burning, although these incidents continued to decline following a government outreach campaign and nongovernmental organization (NGO) efforts. However, several mob killings of suspected thieves occurred.

For example, on January 9, a mob killed Musa Juma in the Arusha Region for trying to rob a house. The police intervened but too late to save his life. At year's end there was no further information about the killing.

In April Robhi Getaraswa, the chairman of Kitagasembe village in Tarime, was beaten, burned, and killed by villagers for stealing eight head of cattle. At year's end the police investigation was pending.

There were no further developments in other cases of mob violence in 2008 including: three persons stoned to death in Rukwa Region; two thieves killed near Malangali; three persons burned to death for illegal fishing; and a man killed for stealing two chickens.

The widespread belief in witchcraft and fear of witches led to the continued killing of alleged witches by persons claiming to be victims of witchcraft, relatives of victims, or mobs.

For example, in August the Mwanza regional commissioner estimated that 60 elderly individuals were murdered in Mwanza on suspicion of being witches during the year; 56 of the victims were women.

In March a mob killed a 70-year-old man in the Mpui village of Sumbawanga district for allegedly practicing witchcraft. The mob, armed with clubs, arrows, and machetes, also injured nine persons, destroyed cattle, and burned down the homes of persons they accused of harboring witches. At year's end there had been no arrests, but the police were looking for five men suspected of being the ring leaders.

Officials condemned such killings. In June 2008 Prime Minister Mizengo Pinda condemned the killing of the elderly on suspicions of witchcraft and urged citizens to take their concerns to a court of law instead of using mob violence.

It was difficult to prosecute persons accused of killing suspected witches due to lack of police resources and the unwillingness of witnesses to come forward, but the government attempted to prosecute several such cases. In September 2008 four persons were arrested for killing Nyabusa Nyanda, age 60, in Sengerema district, Mwanza Region, after accusing her of being a witch. The case remained pending and the suspects remained in custody at year's end.

Violence continued against persons with albinism in the belief that their body parts could create power and wealth. There have been approximately 50 murders since 2007, with four in the month of July of this year alone. NGOs believed that attacks against persons with albinism may be underreported due to the involvement of family or close friends.

In January President Kikwete told a rally organized by the Tanzania Albino Society that his administration would protect persons with albinism and would not tolerate attacks against them. In April 2008 the president appointed a person with albinism—Al-Shaymaa Kwegyr—to parliament to oversee efforts to defend the rights of persons with albinism.

Prime Minister Pinda revoked the licenses of witchdoctors and traditional healers during the year to put an end to the killing of persons with albinism. The announcement received the support of some traditional healers in Manyara Region, who admitted publicly that their colleagues were encouraging the ritual killings.

In March the government asked residents in regions where albino killings were concentrated to name the perpetrators in secret polls. The results of these polls were not released. However, by September there were an estimated 90 persons being held for crimes against persons with albinism. The first trials for alleged albino killers began in June. On September 23, a judge in the Shinyanga Region sentenced three men to death for killing a 14-year-old boy and severing his legs.

In early November a court in Shinyanga Region sentenced four men to death in the killing of a 50-year-old man with albinism for his body parts.

By year's end the courts had sentenced a total of seven persons to death for attacks on persons with albinism.

The Commission on Human Rights and Good Governance (CHRAGG) launched an "omnibus" initiative in October to stop the killings, which included public inquiries, investigations, and educational outreach about human rights violations associated with attacks on persons with albinism.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution and law prohibit such practices; however, police officers and prison guards abused, threatened, and otherwise mistreated civilians, suspected criminals, and prisoners on several occasions during the year. Beatings were the method most commonly used.

For example, in May a suspect accused of pouring acid on the managing editor of the MwanaHalisi newspaper accused Segerea prison officials of severely beating him in front of their supervisor. The beatings allegedly left him paralyzed on the left side. Court officials ordered prison officials to investigate the complaint and report their findings to the magistrate. Prison officials denied the allegations of abuse and stated they were not aware of the court ordered investigation.

Also in May, according to a report from the Legal and Human Rights Center (LHRC), soldiers assaulted a traffic officer at a crossroad in Dar es Salaam, allegedly because he was not directing traffic quickly enough.

On September 19, approximately 15 soldiers stormed a bar in the Lindi Region, reportedly after the owner and its patrons refused to change the radio station. Six persons were seriously injured, and 18 others suffered minor injuries during the clash. Police arrested 12 soldiers and were seeking several others in connection with the incident. There were no further developments by year's end.

There were no further developments in the following 2008 cases: the April complaint by 150 villagers that police beat them and forced them to vacate their homes; the April shooting of three gemstone miners by police; and the June beating of Godbless Kiwelu by police.

Local government officials and courts occasionally used caning as a punishment for both juvenile and adult offenders.

For example, in February a district commissioner in Bukoba ordered police to cane 19 school teachers for tardiness and the poor performance of the students on the national exams. Seven female and 12 male teachers were caned in front of a group of students. On February 14, President Kikwete dismissed the district commissioner. In September the teachers filed a civil suit against the district commissioner for Tanzanian shillings 300 million (\$220,000), and the case continued at year's end.

In August a witchdoctor from Ibongoya village in Mwanza was sentenced to 30 years in prison and four strokes of the cane by the Misungwi District Court for raping a student.

In August international NGOs reported that local field force units forcibly evicted pastoralists and burned their homes and crops from the Loliondo Game Controlled Area (LGCA), an area where a foreign corporation owns the rights to hunt. Police were also alleged to have arrested and sentenced without due process pastoralists who refused to move. In October CHRAGG sent a team to investigate the incident but its report was pending at year's end (see section 6).

Classes on respecting human rights and antitrafficking activities for police and soldiers in basic training continued during the year as part of the inspector general's commitment to professionalize the police force and reduce corruption.

Unlike in the previous year, there were no reports that police raped girls.

Prison and Detention Center Conditions.—During the year representatives from the LHRC, CHRAGG, the Tanzanian Red Cross (TRC), and the diplomatic community visited prisons. Prison conditions remained harsh and life threatening. In May the CHRAGG inspected the Ukonga maximum security prison in Dar es Salaam to follow up on reports that inmates were being denied access to toilet facilities. In interviews inmates complained of substandard food, lack of medication, and poor sanitation. Prisoners stated that when they demanded better conditions they were threatened with beatings and solitary confinement. The LHRC also received prisoner complaints of abuse by guards and other inmates.

The LHRC visited 24 prisons on the mainland during the year and reported that overcrowding remained a serious problem. At one facility LHRC representatives reported that 150 inmates were living in a cell designed for 30. The TRC, which visits prisons annually, stated that some prisoners had to sleep on the floor.

One NGO reported that water was often scarce in the prisons, leading to poor hygiene. Combined with overcrowding, these conditions contributed to the spread of disease. The most common diseases were malaria, tuberculosis, HIV/AIDS, cholera, and other diseases related to poor sanitation. Medical supplies were limited and medical care inadequate. In one women's prison the LHRC reported there were no mosquito nets or screens to prevent malaria. Prison dispensaries offered only limited treatment, and friends and family members of prisoners generally had to provide medications or the funds to purchase them.

Food supplies in the prisons were inadequate. The TRC reported that some prisoners were malnourished.

In May, 12 death row prisoners at the Ukonga maximum security prison reportedly went on a hunger strike to protest the poor quality of food. They accused officials of selling their weekly rations to nearby schools for profit. The prison's public relations officer refuted reports of a hunger strike.

The law allows judges and magistrates to grant parole or impose alternative sentences such as community service as a means of reducing overcrowding; however, these options were rarely used. Only 3,057 prisoners had been granted parole since the parole law was enacted in 1999. According to the LHRC, the law authorizes early release for good behavior but has burdensome evidentiary requirements. Community service was also rarely imposed due to an insufficient number of probation officers.

The country's prisons held approximately 45,000 convicted prisoners and pretrial detainees, whereas the maximum capacity of the prisons was 27,653. An estimated 1,500 convicted prisoners and pretrial detainees are women. While a precise figure was not available for juveniles in detention, officials estimated the juvenile population was similar to that of female prisoners, a small fraction of the total prison population.

Unlike in the previous year, there were no reports that prison officers sexually abused individuals in detention.

Police investigated the 2008 rape of a minor by prison officer Hija Mchwao and found sufficient evidence to charge him. However, in September the charges were dismissed because there were no witnesses willing to testify in the case.

The law requires prisoners to be separated by age and gender, and whether a person is awaiting trial or has been convicted of a crime. For the most part, these laws were followed in practice. Women were separated from men and detainees were separated from convicted prisoners. However, there were only three facilities for juveniles, and juveniles were often held with adults. Male juveniles awaiting trial were held in one of five remand homes, and girls were almost universally released on bail. For the most part remand prisoners were held separately from convicted prisoners.

Authorities often moved prisoners to different prisons without notifying their families. According to CHRAGG, prisoners were moved to attend trials in specialized courts, but in some instances financial constraints precluded the prison system from returning them to their original locations after conviction.

The International Committee of the Red Cross visited prisoners at the International Criminal Tribunal for Rwanda (ICTR) in Arusha, and visited refugees in various prisons across the country to monitor whether their fundamental rights were being observed. The Office of the UN High Commissioner for Refugees (UNHCR) visited prisons holding refugees to learn their immigration status and to provide help to those who believed they had been wrongly arrested and sentenced for illegal immigration. International and domestic NGOs also visited prisons and offered legal and humanitarian assistance. However, the TRC visits were restricted to the visitor areas and the TRC was not permitted to inspect internal prison conditions.

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

The seven elderly residents of Pemba detained in May 2008 were no longer required to report periodically to the police station. In August the seven met with UN representatives without interference and were told that their petition asking for self-determination was under review by the UN.

Role of the Police and Security Apparatus.—The national police force under the Ministry of Public Safety and Security has primary responsibility for maintaining law and order. A special division called the Field Force Unit deals with unlawful demonstrations and riots. Sungusungu citizens' patrols, which are traditional neighborhood and village anticrime groups, also worked with local government leaders to support the police force in refugee camps and other areas. The Ministry of Defense is responsible for external security and has some limited domestic security responsibilities.

The police force remained underfunded and largely inefficient. There continued to be newspaper articles, civil complaints, and reports of police corruption from the Prevention and Control of Corruption Bureau (PCCB) and Ministry of Home Affairs. In the year's National Governance and Corruption Survey, households, public officials, and enterprises identified the police force as one of the most corrupt public institutions.

Police use of excessive force, police corruption, and impunity were problems.

There were continuing efforts to improve the performance of police. For example, during the year the national police held seminars on corruption and took disciplinary action against police officers implicated in wrongdoing. On December 31, the Assistant Superintendent of Police Lwitiko Kibanda announced that during the year more than 15 police officers were dismissed and an additional 15 demoted for unethical behavior, including corruption.

During the year a community policing initiative was launched to mediate local disputes and reduce police corruption. The community police, working in villages, received standardized training, and police conducted an awareness campaign for citizens on how to work with the community policing units.

During the year CHRAGG conducted a pilot study in Mwanza, Mbeya, and Dar es Salaam to determine the extent of police brutality; however, results of the study had not been released by year's end.

In some cases police acted as prosecutors in lower courts, but this practice was being phased out. The Ministry of Justice began hiring and training state prosecutors to handle the entire national caseload. Judicial experts had criticized the practice of police acting as prosecutors because it allowed police to manipulate evidence in criminal cases.

The police continued to hold training seminars on surveillance and detection, human rights, antitrafficking in persons, expediting investigations, finalizing criminal cases, and treatment of opposition political party members. Police sometimes collaborated with international experts for training. The TRC also trained members of the police force both on the mainland and in Zanzibar to educate them about human rights as well as the role of the TRC.

The government took steps to speed up the judicial process by having the Director of Public Prosecution's (DPP) office review cases to identify those that could be dismissed due to weak evidence or resolved through plea bargains. The DPP developed a general instruction manual for prosecutors and collaborated with police on a similar resource for investigators to assist them in processing cases. In addition, the DPP introduced an electronic case management system during the year.

In December the government launched the National Criminal Justice Forum to facilitate collaboration between law enforcement organizations.

The law grants legal status to the Sungusungu village anticrime groups. Local governments appointed Sungusungu members from communities with citizen participation. They have the authority to arrest suspects and carry wooden clubs but no firearms. Family units of a neighborhood in which Sungusungu operated either contributed money to the Sungusungu for patrols or provided a volunteer to participate in patrols. In refugee camps, Sungusungu groups composed of refugees acted as security forces supplementing contingents of police.

During the year there were reports of Sungusungu units using excessive force. Five cases (one in Shinyanga and four in Mwanza) were investigated, of which four were brought to court. Three cases continued at year's end, while the court ordered the Sungusungu involved in the fourth case to pay a fine of Tanzanian shillings 30,000 (\$23) to the victim.

Arrest Procedures and Treatment while in Detention.—The law requires that persons be apprehended openly with warrants based on sufficient evidence, and authorities generally complied with the law. The law also requires that a person arrested for a crime, other than a national security detainee, be charged before a magistrate within 24 hours of arrest; however, at times the police failed to comply with this requirement. The law gives accused persons the right to contact a lawyer or talk with family members, but at times they were denied this right. Prompt access to counsel was often limited by the lack of lawyers in rural areas, the lack of communication systems and infrastructure, and the illiteracy and poverty of the accused. Authorities promptly informed detainees of the charges against them. The government provided legal representation for some indigent defendants and for all suspects charged with murder or treason. The law does not allow bail for cases involving murder, treason, drugs, armed robberies, or other violent offenders posing a public safety risk. When bail is granted in some cases, strict conditions on freedom of movement and association are imposed. In the primary and district courts, bribes sometimes determined whether or not bail was granted.

By law the president may order the arrest and indefinite detention without bail of any person considered dangerous to the public order or national security. The government must release such detainees within 15 days or inform them of the reason for their continued detention; it also allows a detainee to challenge the grounds for detention at 90-day intervals. The government has additional broad detention powers under the law, which permits regional and district commissioners to arrest and detain for 48 hours anyone who may "disturb public tranquility." This act was not invoked during the year.

CHRAGG estimated that more than 50 percent of the prison population consisted of pretrial detainees. Detainees charged with criminal matters generally waited several years for trial due to the time required to complete police investigations, a lack of judges to hear cases, and an inadequate judicial budget.

CHRAGG reported that on average it took two to five years for suspects to have their cases heard and a judgment reached. Prisoners continued to protest the length of time it took to hear their cases. In January and again in August, pretrial suspects in the Keko Prison of Dar es Salaam went on hunger strikes in order to pressure the government to accelerate their cases. After five days, three of the inmates were reportedly in critical condition and had to be put on intravenous drip. There was no immediate response from prison officials as to the status of their trials.

On April 26, President Kikwete ordered the release of 3,247 prisoners to ease overcrowding. This group included ill, elderly, inmates who had served more than one-fourth of their sentence, pregnant women, or those with infants.

On December 9, President Kikwete pardoned more than 4,000 prisoners on the occasion of Tanzania's Independence Day.

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary; however, the judiciary remained underfunded, corrupt (see section 4), inefficient, and subject to executive influence, especially in the lower courts. Court clerks took bribes to decide whether or not to open cases and to hide or misdirect the files of those accused of crimes. According to news reports, magistrates of lower courts occasionally accepted bribes to determine guilt or innocence, pass sentences, or decide appeals of cases coming from the primary courts to district courts.

The union Ministry of Justice faced a critical shortage of court buildings as well as magistrates and judges. However, during the year President Kikwete appointed 14 judges to the high court, bringing the total to 55 of whom 22 were female.

In Zanzibar the president appointed two new high court judges, which brought the total number of judges to six. The Zanzibar government also eased the backlog of cases in the land tribunal by hiring three new magistrates, two from Unguja and one from Pemba. Previously the land tribunal only had one magistrate.

Both the union and Zanzibar legal systems are based on British common law and also recognize customary and Islamic law in civil cases. In criminal matters both Christians and Muslims are governed by statutory or common law.

A Judicial Service Commission, chaired by the chief justice of the Court of Appeal, appoints all judges except those for the Court of Appeal and the high courts, who are appointed by the president. All courts, including Islamic courts in Zanzibar, are staffed by civil servants.

The country has a five-tier judicial system whose highest court is the Court of Appeal. In addition, in Zanzibar, whose population is almost entirely Muslim, there is a system of Islamic kadhi courts with its own hierarchy, topped by a kadhi court of appeal. These courts hear matters involving customary Islamic law on family and related matters. On the mainland, civil law essentially governs all persons involved in cases of child custody and divorce. Islamic and customary law governs other family matters for Muslims and Christians, respectively. The issue of establishing a kadhi court on the mainland, which has divided Muslim and Christian leaders, remained contentious.

There was one juvenile court; however, it was overburdened and handled cases only for young offenders in Dar es Salaam. Juvenile offenders in other regions were tried in adult courts in most cases or waited months for cross-country transportation to the juvenile court.

The law also provides for commercial courts, land courts, housing tribunals, and military tribunals. Military tribunals do not try civilians, but defendants convicted by military tribunals may appeal to the High Court and the Court of Appeal.

Trial Procedures.—With some exceptions, criminal trials were open to the public and the press. Courts that hold secret proceedings—such as in drug trafficking cases—generally are required to provide reasons for closing the proceedings. In cases involving terrorism, the law provides that everyone except the interested parties may be excluded and that witnesses may be heard under special arrangements for their protection. The law prohibits lawyers from appearing or defending clients in primary-level courts.

Juries are not used. The law provides for the presumption of innocence. Defendants or their lawyers have access to evidence held by the government, the right to question witnesses, and the right to present evidence on the defendant's behalf. All defendants charged with civil or criminal matters, except parties appearing before kadhi courts and cases examining the constitutionality of Zanzibar laws, could appeal decisions to the high courts and the Court of Appeal. The law provides a right to free counsel for defendants accused of murder and treason as well as for indigent

defendants in other serious cases. Most indigent defendants charged with lesser crimes did not have legal counsel, however. In Zanzibar prosecutors act as lawyers for both the state and the defendant. Suspects do not have the right to legal defense.

There were approximately 1,000 registered lawyers in the country, 80 percent of whom practiced in Dar es Salaam, Arusha, and Mwanza. Most defendants in urban areas who could not afford to hire a legal representative or lawyer represented themselves in court, but women and the economically needy were provided with free legal assistance by the government and some NGOs, such as the Tanzania Women Lawyers Association (TAWLA) and the National Organization for Legal Assistance.

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

Civil Judicial Procedures and Remedies.—There is an independent and impartial judiciary in civil matters. Civil proceedings are administered in the high court or at the magistrate or district level. Persons may bring lawsuits seeking damages or the cessation of human rights violations; however, civil judicial procedures often were slow, inefficient, and corrupt.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law generally prohibits such actions without a search warrant; however, the government did not consistently respect these prohibitions. While only courts can issue search warrants, the law also authorizes searches of persons and premises without a warrant if necessary to prevent the loss or destruction of evidence, or if circumstances are serious and urgent. During the year security forces increasingly sought search warrants in accordance with the law, and citizens had a greater awareness of their civil liberties and complained when they were violated. CHRAGG received between 125 and 150 complaints regarding civil liberties each month during the year. Between 2001 and 2008, CHRAGG received a total of 1,670 such complaints or roughly 20 per month.

The law relating to terrorism permits high-ranking police officers to conduct searches without a warrant in certain urgent cases; there were no reports that this provision of the act has ever been invoked.

It was widely believed that security forces monitored telephones and correspondence of some citizens and foreign residents. The actual nature and extent of this practice were not known.

The LHRC reported several continuing disputes between residents and the government concerning land seizures. The 2001 case of 135 villagers who claimed they had been illegally evicted from their land by government officials in the Nyamuma villages of Serengeti District in Mara Region was continuing. During the year the LHRC filed an application with the High Court seeking a court order to compel the government to compensate or resettle the villagers. At year's end no date had been set by the court for the hearing.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of speech but does not explicitly provide for freedom of the press.

The law provides for arrest, prosecution, and punishment for the use of abusive or derogatory language to describe the country's leadership publicly.

For example, on September 27, members of the opposition party Civic United Front (CUF) were arrested in Tanga and charged with unlawful abuse of the president following a rally at which they called for the dissolution of the National Electoral and Zanzibar Electoral Commissions, alleging that they were instruments of the ruling party. The CUF officials were released on bail. At year's end there were no further developments (see section 1.d.).

The independent media on the mainland were active and expressed a wide variety of views without restriction.

The president publicly expressed support for press freedom, and journalists were generally able to publish articles, for example, alleging corruption by government officials, without reprisal. However, the Ministry of Information acknowledged that it called four editors into its offices during the year for distorting government statements, criticizing the president without offering supporting evidence, and printing misinformation about a parliamentary debate. No further action was taken against the editors.

During the year there were reports of journalists being attacked. For example, on December 22, five assailants attacked a journalist from Mwananchi Communications in his home in Mwanza. The suspects demanded the journalist turn over documents he had received in connection with an investigation into funds allegedly stolen from a government bank account. The police were investigating the case at year's end.

The law allows police to raid and seize materials from newspaper offices and allows the minister of information to close media outlets for reasons of undefined "public interest." Unlike in the previous year, the government did not exercise these powers during the year.

Unlike in the previous years, no newspapers were suspended. The newspaper MwanaHalisi, which was suspended in October 2008, resumed operation in January.

Registering newspapers remained difficult and was at the discretion of the Registrar of Newspapers at the Ministry of Information on both the mainland and Zanzibar. On the mainland there were an estimated 16 daily newspapers, 25 television stations, and 30 radio stations.

The mainland government allowed political opponents unrestricted access to the media. Publications such as the opposition party CHADEMA's Tanzania Daima were published daily. Many radio stations and all but one television station were privately owned. There were government restrictions on broadcasting in tribal languages. The government operated newspaper, radio, and television outlets, as did private corporations.

In Zanzibar one of the two newspapers was privately owned. The only daily newspaper was government owned. National newspapers were sold in Zanzibar without restriction. The Zanzibar government controlled all content of radio and television broadcasts, whether privately or publicly owned. However, the radio stations operated relatively independently, often reading the content of national dailies including articles critical of the Zanzibar government.

Although the media were primarily government-controlled in Zanzibar, political opposition spokespersons had access. A permit was required for reporting on police or prison activities, and journalists needed special permission to attend meetings in the Zanzibar House of Representatives. Anyone publishing information accusing a Zanzibar member of parliament of involvement in illegal activities was liable to a fine of not less than Tanzanian shillings 250,000 (\$190), three years' imprisonment, or both. Nothing in the law specifies whether this penalty stands if the allegations were proven to be true. The law also empowers the government to fine and suspend newspapers without warning.

Reporters were often harassed and threatened on Zanzibar. For example, in October journalist Mwinyi Sadala was arrested while investigating a cholera outbreak in Karakana. When he reportedly refused to give police his camera, they seized it and charged him with taking pictures without the permission of the permanent secretary of the Ministry of Health and Social Welfare. After deleting the pictures from the camera, police returned it to Sadala and withdrew the case against him. In 2008 the Committee to Protect Journalists criticized the government for arbitrarily arresting journalists.

During the year there was one attempt to launch a new newspaper on Zanzibar, but Zanzibar officials denied it registration. However, the newspaper received approval from mainland officials and operated from the mainland.

Internet Freedom.—There were no government restrictions on access to the Internet. During the year the police monitored the Internet to prevent trafficking in persons and other illegal activities. Web sites and blogs critical of the government faced the same scrutiny and possibility of arrest as print media. During the year the government shut down one blog for posting a doctored photo of the president. In general individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail.

According to the International Telecommunication Union statistics for 2008, approximately 1 percent of the country's inhabitants used the Internet.

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

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The constitution provides for freedom of assembly; however, the government did not always respect this right in practice.

The government requires organizers of rallies to obtain police permission. Police may deny permission on public safety or security grounds or if the permit seeker belongs to an unregistered organization or political party.

On July 11, the Dar es Salaam police prevented a group of retirees of the East African Community from meeting for fear that they would create public disorder and unrest. The retirees claimed the police had given them a permit to assemble in advance of the planned meeting.

On July 17, according to an article in Mwananchi, Zanzibar police banned a planned demonstration of five political parties who wanted to march in support of the Zanzibar government's decision to remove gas and petroleum from the list of union issues.

The Zanzibar government forcibly dispersed and arrested demonstrators.

On August 4, Zanzibar government militia reportedly fired bullets into the air to disperse crowds of CUF supporters gathered at registration facilities on Pemba to protest the electoral registration process.

On September 27, police arrested seven members of the opposition party CUF after a rally in Tanga on charges of unlawful assembly, assembly to commit a breach of peace, and unlawful abuse of the president following the rally. CUF officials maintained they had obtained police permission to hold the rally and made no statements that could be construed as abusive to the president. The group was released on bail. At year's end there were no further developments.

No action was taken against police officers who allegedly beat and injured opposition CHADEMA supporters during a by-election in Tarime, Mara Region, in October 2008.

Freedom of Association.—The constitution provides for freedom of association, and the government generally respected this right in practice.

c. Freedom of Religion.—The constitution provides for freedom of religion; however, there were some limits on this freedom.

Religious organizations must register with the Ministry of Home Affairs. To register, a religious organization must have at least 10 followers and present a constitution, the resumes of its leaders, and a letter of recommendation from the district commissioner of the locale where the organization would be based. Muslim groups on the mainland also were required to submit a letter of recommendation from the National Muslim Council of Tanzania, the body that governs Islamic matters on the mainland, and from the office of the mufti in Zanzibar.

There were no reports that the government refused to register any group during the year.

The law prohibits preaching, or distributing materials, that are inflammatory or a threat to the public order.

The government occasionally rejected requests from religious groups seeking to hold demonstrations because of the possibility that the gathering could become confrontational or inflame religious tensions. During the year Muslim religious leaders appealed to the government to reintroduce kadhi courts on the mainland for the adjudication of Islamic civil matters. Christian groups have objected that such courts would violate government neutrality among religions and that the union constitution did not provide for a national kadhi court.

Societal Abuses and Discrimination.—Government policy prohibits discrimination against any individual on the basis of religious beliefs or practices. Some Muslim groups charged that the government discriminated against them in hiring, education, and law enforcement practices. Some Christian groups claimed that all sensitive government positions were filled by Muslims, but neutral observers stated that there did not appear to be government bias toward any particular religious group.

Unlike in the previous year, there were no reports that Muslim school girls were harassed for wearing headscarves.

There were sporadic reports of religion-based disturbances in various communities. Most of these reports involved practitioners of animism targeted by members of the community who objected to their traditional beliefs.

There were no further developments in the January 2008 case of villagers in Idiwili who burned down the house of a Pentecostal preacher.

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

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights. The government generally cooperated with the Office of the UNHCR and other humanitarian organizations in providing protection and assistance to refugees and asylum seekers.

Police at checkpoints sometimes solicited bribes.

The law does not permit the forced exile of citizens, and the government did not use forced exile in practice.

Protection of Refugees.—The country is a party to the 1951 Convention relating to the Status of Refugees, the 1967 Protocol relating to the Status of Refugees, and the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. Its laws provide for the granting of asylum or refugee status and the government has established a system for providing protection to refugees. For

the most part, the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. However, in early November regional authorities in Kigoma Region forcibly returned 72 asylum seekers from the Democratic Republic of Congo (DRC) without allowing the UNHCR to conduct an independent status determination. The Ministry of Home Affairs stated it regretted the incident and would not allow it to occur again.

In December 2008 the minister of home affairs announced that approximately 200,000 refugees who had arrived from Burundi in 1972 would be offered the choice of citizenship or assisted voluntary repatriation. In close consultation with the UNHCR, the government continued the process of identifying those qualified for citizenship and local integration, and more than 155,000 refugees had been granted citizenship by year's end.

There were approximately 125,000 refugees in the country at the start of the year, but only about 100,000 by the end of the year, primarily from Burundi and the DRC. All Burundian refugees from 1993 except for approximately 36,000 were returned to Burundi as the political situation there improved.

Burundian refugees continued to return home during the year, motivated by improved security in Burundi, strong encouragement from the government, and UNHCR relocation assistance packages. The tripartite commission composed of the UNHCR and the governments of Tanzania and Burundi encouraged repatriation by closing schools in the camps and stopping refugee income-generating projects. The UNHCR facilitated the repatriation of over 29,000 Burundian refugees and more than 1,400 refugees to the DRC. Repatriation of Congolese slowed considerably compared to the previous year. All returns were voluntary; however, some refugees departed under the perceived threat of restrictions on their activities from local politicians or of forced return to a country where they feared life was not safe or economically viable.

By year's end there were only two UNHCR-supported camps in the country, one for Congolese and one for Burundians. It remained illegal for refugees to live outside their camps or settlements or to travel outside the camps farther than two and one-half miles without permits. An exit permit could be obtained from the regional authorities for an absence from the camps of less than 11 days. Permits for longer absences could be obtained from the Ministry of Home Affairs; however, there were several reports that refugees had difficulty obtaining permission to leave the camps. Refugees apprehended outside the camps without permits often were sentenced to community service rather than imprisonment and deportation, as was the case in earlier years. The Ministry of Home Affairs acknowledged that some judges in the past had misinterpreted the regulation and sentenced refugees to three years in jail instead of imposing a six-month sentence or fine as prescribed by the law.

Local government authorities policed the camps with support from refugee volunteers. Robbery, assault, and rape were the most common crimes. A total of 97 refugees were detained for crimes committed inside and outside of the camps between January and June. UNHCR worked with authorities to address issues of sexual violence and violence against minorities. During the year the government investigated, prosecuted, and punished perpetrators of abuses in the refugee camps; most cases of refugees involved in crime and abuse outside the camps were handled by local authorities. Residents of refugee camps suffered delays and limited access to courts, common problems faced by citizens as well. There were reports that some refugees engaged in intimidation and vigilante justice within camps.

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

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in elections on the mainland and in Zanzibar. However, electoral irregularities, political violence, and legal and financial provisions favoring the ruling CCM limited the effectiveness of the electoral process in Zanzibar. Political parties are required by law to support the union between Tanganyika and Zanzibar; parties based on ethnic, regional, or religious affiliation are prohibited. Unregistered parties were prohibited from fielding candidates during the 2005 elections.

In preparation for the October 2010 national elections, the Zanzibar government began registering eligible voters in late June. The registration process became contentious when CUF party members alleged they were denied the right to register. A Zanzibar identification card, which some CUF supporters had difficulty obtaining, was required for registration. On August 4, Zanzibar government militia reportedly fired bullets into the air to disperse crowds of CUF supporters gathered at registra-

tion facilities on Pemba to protest the registration process (see section 2.b.). According to CUF the soldiers arrested and beat several party supporters. The charges against two of those arrested were later dropped, while a third case remained pending at year's end. Union police forces observed the attacks but did not attempt to intervene. Following this incident, the Zanzibar Electoral Commission halted registration. When it resumed in mid-September, CUF supporters staged protests and blocked access to the voter registration centers. Police dispersed the protesters.

Elections and Political Participation.—Separate elections are held on the mainland and on Zanzibar, sometimes on the same day, in which citizens of the two parts of the union elect local officials, members of the national parliament, and a union (national) president. In addition, Zanzibaris separately elect a president of Zanzibar and members of the Zanzibar House of Representatives. District and regional leaders in Zanzibar and on the mainland are appointed by their respective presidents.

During the year there were three union parliamentary by-elections and one for the Zanzibar House of Representatives. On the mainland unidentified individuals reportedly attacked opposition party members in Busanda and Biharamulo during the campaigns preceding the by-elections. The ruling CCM party made similar complaints regarding attacks. In addition, opposition parties complained of voting irregularities in Biharamulo but did not file a legal challenge.

In 2005 Jakaya Kikwete, the CCM candidate, was elected president of the union with 80.2 percent of the vote in an election widely considered by observers as more free and fair than previous elections; however, the campaigns preceding them were marked by violence in some regions.

In 2005 voters in the semiautonomous archipelago of Zanzibar elected a president, legislators, and local representatives for the archipelago. CCM candidate Amani Karume, the incumbent president, was reelected with 53 percent of the vote in an election marred by irregularities and violence.

Harassment of opposition political parties by the government diminished after the 2005 elections. However, with political parties preparing for the 2010 elections, opposition parties alleged that the ruling party tried to hamper their campaign initiatives. For example, on September 27, seven CUF officials were arrested after a rally and charged with unlawful assembly (see section 2.b.). CUF officials maintained they had permission for the event, and the group was released on bail. A few days later, CUF held a march in Dar es Salaam to protest the ruling party's control over the national and Zanzibari electoral commissions.

Individuals and parties could freely declare their candidacy and stand for election. The law requires that persons running for office must represent a registered political party.

In Zanzibar, particularly on Pemba, opposition party members claimed that the government, the largest employer, discriminated against them in hiring.

The registrar of political parties has sole authority to approve registration of any political party and is responsible for enforcing regulations on registered parties. Parties granted provisional registration may hold public meetings and recruit members. To secure full registration and be eligible to field candidates for election, parties must submit lists of at least 200 members in 10 of the country's 26 regions, including two of the five regions of Zanzibar, within six months.

The election law provides for parliamentarians completing a term to receive Tanzanian shillings 20,000,000 (\$15,000) as a "gratuity," which incumbents can use in reelection campaigns. Several NGOs and opposition parties criticized this provision for impeding aspiring parliamentary candidates from opposition parties to mount an effective challenge.

At year's end the government's 2007 appeal of a 2006 ruling by the High Court, which would allow independent candidates to contest local and national elections, remained pending.

The law requires that women occupy at least 30 percent of seats in parliament. The political parties appoint women to serve in seats set aside for them according to the percentage of votes their parties win. After the 2005 elections there were 75 special seats for women, and at year's end there were 91 women in the 320-seat parliament. After taking office in 2005, President Kikwete appointed seven women ministers (compared with four in the former administration) and 10 women deputy ministers. At year's end, however, there were seven women ministers and three deputy ministers. More than 20 of the 55 high court judges were women, and one woman served as a justice of the Union Court of Appeal. Women held 18 seats in the 81-seat Zanzibar House of Representatives and four positions in the cabinet of the Zanzibar government.

There were 11 members of parliament of Asian origin in the 320-seat National Assembly. There were no ministers of Asian origin.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and some officials engaged in corrupt practices with impunity. The World Bank's Governance Indicators reflected that corruption remained a serious problem. In September the media reported that the World Bank urged the government to do more to fight corruption as lack of progress allows perpetrators to act with impunity. President Kikwete publicly reaffirmed his commitment to fight corruption, noting the increase in ongoing corruption cases from 58 in 2005 to 578 during the year. Although several high-profile corruption investigations were underway, including the case against former cabinet ministers Basil Mramba and Daniel Yona for granting unjustified tax exemptions on a gold production agreement, the government was criticized for slow progress in these cases.

Judicial corruption was a problem. For example, in May a district magistrate was sentenced to 11 years in prison for demanding five million Tanzanian shillings (\$3,700) from a businessman in return for a favorable judgment in his case.

In September a primary court magistrate and a district court secretary in Mwanza were arrested and prosecuted on corruption charges. The two were charged with soliciting and receiving a bribe of Tanzanian shillings 60 million (\$45,000). At year's end their case continued.

In May a Kisumu Resident Magistrate's court found Jamila Nzota, a magistrate in the Temeke district court, guilty of soliciting a bribe of Tanzanian shillings five million (\$3,700) and receiving Tanzanian shillings 700,000 (\$526). Her case was on appeal at year's end.

The PCCB is responsible for educating the public about corruption, investigating suspected cases, and prosecuting offenders in coordination with the DPP. The PCCB has 24 regional offices and an office in every district on the mainland. It received 3,780 allegations of corruption between January and August, investigated 584 cases, and completed 834 investigation files. According to the PCCB, 137 new cases were submitted to the courts during the year and 409 old and new cases prosecuted. As of August there had been 25 convictions and 40 acquittals.

A special unit of the police force in Zanzibar is responsible for corruption cases. However, there were no investigations as no complaints were received during the year.

According to the PCCB, most corruption investigations concerned government involvement in mining, land matters, energy, and investment. NGOs also reported that allegations of corruption involved the Tanzania Revenue Authority, local government officials, the police, licensing authorities, hospital workers, and the media.

In September four Bank of Tanzania (BOT) employees were charged with embezzling Tanzanian shillings 104 billion (\$78 million) by manipulating contract prices and printing requests for currency procurement. One of the accused in this case was also charged in the ongoing external payment arrears corruption investigation. At year's end the accused were awaiting trial.

The case against more than 20 individuals accused in October 2008 of obtaining funds fraudulently from the BOT's external payment account was ongoing at year's end.

There were no further developments in the November 2008 corruption case against two former ministers of finance and the December 2008 case against the former permanent secretary in the Ministry of Finance.

The government continued to use specialized agencies to fight corruption, but their effectiveness was limited. A three-person unit within the President's Office, headed by a minister of state for good governance, was charged with coordinating anticorruption efforts and collecting information from all the ministries for publication in quarterly reports; however, this unit was not effective.

There was little accountability in most government entities; senior government officials estimated that 20 percent of the government's budget in each fiscal year was lost to corruption, including theft and fraud, fake purchasing transactions, and "ghost workers." For example, on October 31, the controller and auditor general completed a review of all claims made by secondary school teachers for back pay and found that in some instances teachers had made claims for payments already received, and in other instances they had submitted forged documents to substantiate claims. As a result of these irregularities, roughly half of the claimed amount was rejected.

Government ministers and members of parliament are required to disclose their assets when they take office, at the end of each year, and when they leave office; however, there was no enforcement mechanism or means to determine the accuracy of these disclosures. At year's end only 23 percent of officials required to make disclosures had met the end-of-year deadline.

There is no law providing for public access to government information, and such access remained limited. Government officials routinely refused to make information available. In Zanzibar journalists complained about lack of access to government information. Civil service regulations effectively allow only a handful of high-level government representatives to communicate information to the media. Media groups pressed the government and parliament to adopt a freedom of information act. Although the government held consultations with civil society organizations as well as members of the media on a new media bill, no immediate action was taken. The legislation was pending at year's end.

In January Haki Elimu, a local NGO, in partnership with International Budget Partnership, launched the Open Budget Index and concluded that although budget transparency has improved in recent years, problems persisted. Information was available about the budgets, but it was not meaningful or easily understood.

According to a 2007-08 survey by Haki Elimu, the public did not have access to information about the government's fiscal activities and budget. Government officials estimated that 90 percent of all government documents, including administrative forms, were treated as classified. According to access-to-information advocates, laws blocked public access to government information relating to national security, broadcasting, newspapers, prisons, restricted areas, official secrets, and police. There was no mechanism for appealing denials.

Parliament continued to use the Parliamentary Online Information System (POLIS), which was available to the public via the Internet, to increase access to government information. However, POLIS' reach remained limited, since only about 1 percent of the country's citizens used the Internet.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. On the mainland more than 5,000 NGOs were registered and entered into the database maintained by a government-appointed NGO coordination unit within the vice president's office. The registration process was slow, taking two to five years. International NGOs may operate both on the mainland and Zanzibar. However, NGOs in Zanzibar must apply through the local government for approval, and all religious NGOs must seek approval from the Office of the Mufti, the Muslim religious authority.

Mainland government officials generally were cooperative and responsive to the views of human rights groups, although the government accused NGOs of exaggerating reports concerning the eviction of pastoralists from hunting reserves in Loliondo in September. The minister of natural resources and tourism criticized NGOs for misleading the public and stated the government planned to take measures against them.

According to the Zanzibar Legal Council, the Zanzibar government worked well with NGOs during the year. Together with NGOs the government established a policy forum to encourage dialogue about Zanzibar's laws and public policies. The forum, made up of different stakeholders and senior members of the Zanzibar government, planned to meet every two months, alternating between Zanzibar and Pemba. In the past the government of Zanzibar was less tolerant of NGOs that criticized the government, subjecting them to fines, suspensions, and removal for violations of laws against sedition.

Active domestic human rights NGOs included Tanzania Gender Networking Programme, Haki Elimu, the Center for Human Rights Promotion, the Legal and Human Rights Centre, Tanzania Media Women's Association, Action on Disability and Development, Tanzania Albino Society, and the Tanzania Women Lawyers' Association. There were also many smaller local human rights NGOs based outside of Dar es Salaam. The Zanzibar Legal Services Center was one of the few active human rights organizations in Zanzibar. All of these organizations were independent of the government.

CHRAGG, which was financed by the government, operated without government interference on the mainland and in Zanzibar. CHRAGG received an increased number of complaints on issues of human rights and administrative justice, partly as a result of awareness campaigns conducted through the media and countrywide rural visits by the commissioners and investigative officers. CHRAGG received 2,341 complaints during the year, of which 558 concerned human rights abuses such as police brutality and prison conditions, and 1,783 involved good governance issues such as labor disputes, land matters, and judicial delays. Following its visits to prisons throughout the country, CHRAGG recorded a spike in complaints. CHRAGG officials stated financial constraints limited their activities and prevented them from

addressing the vast majority of complaints, but the organization closed approximately 300 cases during the year.

The union parliamentary committee for constitutional, legal, and public administration is responsible for reporting and making recommendations regarding human rights. Although the majority of committee members were from the ruling CCM party, the committee nevertheless acted independently of government and political party influence, and most observers viewed it as an unbiased institution.

The government continued to host the ICTR in Arusha and was supportive of, and cooperated with, the ICTR. During the year there were 23 detainees involved in six continuing cases. Five other detainees were awaiting trial, and eight cases were pending appeal. In September and October respectively, Gregoire Ndahimana and Idelphonse Nizeyimana, two of the 13 remaining fugitives, were transferred to the ICTR. In addition, the trial of Augustin Ndirabatware, former minister of planning, began in September. In December the UN Security Council extended the ICTR's mandate until 2012.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on nationality, ethnicity, political affiliation, race, social status, or religion. Discrimination based on gender, age, or disability was not explicitly prohibited by law but was discouraged publicly in official statements and by government policies. Discrimination against women, refugees, minorities, and persons with HIV/AIDS and disabilities persisted, and ethnic tensions continued in some parts of the country.

Women.—The law provides for life imprisonment for persons convicted of rape, including spousal rape, and rape continued to be a serious problem. During the year several persons were prosecuted and convicted for rape and battery, although an estimated 80 percent of rape victims did not report their cases. During the year there were 7,325 reported rape cases, 2,969 prosecutions, 362 convictions, and 67 acquittals.

In August Zanzibar's Ministry of Labor, Youth Development, Women, and Children announced the creation of committees in each region to combat rape. Between January and October there were 551 rape cases treated at the Mnazi Mmoja hospital in Zanzibar.

A survey released in July 2008 by the Tanzania Media Women's Association indicated that efforts to fight violence against women in Zanzibar were undermined by insensitivity to gender-based violence by the police, the judicial system, and hospital workers. According to the survey, communities considered violence against women as a private matter and discouraged victims from taking legal action. Furthermore, the survey concluded that the way police and hospitals handled such cases discouraged victims from seeking legal remedies. Respondents stated that some police officers made humiliating comments to women who reported cases of rape, and sometimes asked for a bribe for their cases to be processed.

Domestic violence against women remained widespread. The law prohibits assault but does not specifically prohibit spousal battery or protect women from gender-based violence. There is no unified legal code protecting women. Disparate provisions of various statutes offer ineffective safeguards against gender-based violence.

Cultural, family, and social pressures often prevented women from reporting abuses, and authorities rarely took action against persons who abused women. Police reportedly were often reluctant to pursue domestic abuse cases, viewing them as family matters. However, domestic violence was increasingly viewed as unacceptable. During the year there were prosecutions and convictions for spousal abuse of husbands who beat their wives. There were also rare cases of husbands who took their wives to court for abuse. NGOs such as Kiwotede and TAWLA regularly educated the public about the laws concerning spousal abuse and provided education and shelter assistance to victims.

The courts recognized domestic violence as grounds for divorce. However, women often tolerated prolonged domestic abuse before seeking a divorce. Women in urban areas who sought advice from legal aid clinics most commonly cited domestic abuse as the reason for wanting a divorce.

During the year NGOs led efforts to sensitize society to the issue of domestic violence. Through an extensive television advertising campaign, they encouraged women to speak out about the issue.

The law prohibits prostitution; however, prostitution remained common. Prostituted women were occasionally arrested, but the police did not keep official statistics on prostitution arrests. Rural women and young girls immigrating to urban areas were most at risk for prostitution.

The government recognized the right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children. There were no

restrictions on the right to access contraceptives. Only an estimated 20 percent of women used contraception, while another 20 percent would have liked to but did not for reasons of culture, logistics, or commodity shortages. The government provided free childbirth services but lacked sufficient qualified health care professionals as well as medical supplies. An estimated 60 percent of approved positions within the Ministry of Health and Social Welfare remained unfilled, crippling small, rural clinics. Pregnant women giving birth at government health-care facilities often had to purchase their own medical supplies. Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV.

The law prohibits sexual harassment of women in the workplace, but no statistics existed on the extent of its occurrence or on effectiveness of enforcement. In the private sector, there were complaints that women at times faced discrimination because employers worried their household obligations would be a professional liability.

Inheritance and marriage laws do not consistently provide full equality for women, and in practice women's rights often were not respected. The Ministry of Community Development, Women, and Children and the Ministry of Justice and Constitutional Affairs were responsible for protecting the legal rights of women. Discrimination against women was most acute in rural areas. Rural women had little opportunity to attend school or obtain wage employment.

In family matters the content and application of some customary and Islamic laws was viewed by many as discriminatory against women.

The law gives individuals the right to use, transfer, and occupy land without distinction of gender, and recognizes women's occupancy rights (all land in Tanzania belongs to the government), but implementation was difficult because most women were unaware of the law. Historically, rural women did not own land or manage businesses because of cultural constraints and lack of education. Civil society activists reported widespread discrimination against women in property matters related to inheritance and divorce. This was particularly the case in Zanzibar, but also in some parts of the mainland, where activists maintained that judges relied on customary and Islamic law in discriminatory fashion. Women were particularly vulnerable if they initiated the separation from their partners or if their partners died.

In Zanzibar women between the ages of 18 and 21 who became pregnant out of wedlock could be sentenced to perform community service set by the Zanzibar director of public prosecution. The provision was not applied during the year.

Children.—Citizenship is derived by birth within the country's territory, or if abroad, from one's parents. The Committee of the UN Convention on the Rights of the Child reported in August that only six of every 100 Tanzanian children have birth certificates. Births are supposed to be registered within three months. After that parents must pay a small fee for registration. To encourage registration, children enrolling in preschool must present a registration certificate. However, public services were not withheld if a child was not registered.

Primary education was compulsory, free, and universal on both the mainland and Zanzibar through the age of 15 for all children; however, there were inadequate numbers of schools, teachers, books, and other educational materials to meet the demand.

During the year fees continued to be charged for school enrollment beginning in form one, the equivalent of the first year of high school. As a result, many children did not have access to a complete secondary education. The responsibility to pay for books, uniforms, and school lunches fell primarily to parents.

Girls represented roughly half of all those enrolled in primary school but were absent more often due to household duties. Overall school completion rates were the same for boys and girls: 56 percent for primary school and 33 percent for secondary.

There continued to be reports of teachers raping students during the year. In February John Donart, a teacher in the Bagamoyo District of the Coastal Region, was charged with raping a 14-year-old girl. At year's end he was on bail pending a hearing.

The law prohibits FGM; however, it continued to be practiced by some tribes and families. Statutory penalties for FGM on girls under 18 ranged from five to 15 years' imprisonment, a fine, or both, but those who conducted the illegal procedure were rarely prosecuted. The law also provides for the payment of compensation by the perpetrator to the person against whom the offense was committed.

The law provides that anyone who has custody, charge, or care of a girl under 18 and who causes her to undergo FGM commits the offense of cruelty to children. The penalty for such an offense is imprisonment of up to 15 years and/or a fine of Tanzanian shillings 300,000 (\$220).

According to 2005 data, the Ministry of Health estimated that 5 to 15 percent of women and girls underwent FGM; their average age was less than 10 years old and

reportedly included some newborns. FGM was practiced by approximately 20 of the country's 130 tribes and was most prevalent in the mainland regions of Arusha, Singida, Kilimanjaro, Morogoro, and Dar es Salaam. In other parts of the country, less than 5 percent of the population practiced FGM. Clitoridectomy, a less severe form of FGM, was employed most frequently; however, infibulation, the most severe form, was also practiced, mainly in the northern highlands and the central zone.

On June 15, a local government officer in Singida stated that 254 out of 1,046 women in Manyoni District of the Singida Region who delivered in health clinics were circumcised.

In June 2008 it was reported that infants below one year of age in Makiungu village, Singida Region, were subjected to FGM by their mothers, unlike in the past when the procedure was performed by traditional healers called "ngaribas." AFNET, an NGO dealing with women's rights, reported that 47 out of 59 infants and girls up to age five who attended a village clinic in Singida Region had undergone FGM.

There were no reports of prosecutions related to FGM during the year. Enforcement of the anti-FGM law was difficult for a number of reasons: many police officers and communities were not aware of the law, victims were often reluctant to testify, and some witnesses feared reprisals from supporters of FGM. Corruption was also a factor; some villagers reportedly bribed local leaders not to enforce the law in order to carry out FGM on their daughters.

The government continued to implement the 2001-15 National Plan of Action for the Prevention and Eradication of Violence Against Women and Children. This strategy sought the elimination of FGM by involving both male and female practitioners and community leaders. Anti-FGM groups urged parliamentarians and local officials to take a more active role in enforcing the law.

During the year the government and NGOs continued to make progress toward eliminating the practice of FGM. In 2008 the government embarked on an education program for magistrates, police officers, doctors, and community development experts on FGM. The Anti-Female Genital Mutilation Network and a coalition of anti-FGM NGOs engaged in awareness-raising activities and conducted research on FGM. Anti-FGM groups continued their attempts to educate the ngaribas about the harmful effects of FGM and to train them for other occupations. The chairman of the Tanga Regional Committee for Culture and Traditions reported in July 2008 that incidents of FGM declined during the year in Mkinga district, Tanga Region, following efforts by local communities to educate villagers about the long term and ill effects of FGM. In some areas there were reports of local clinics educating ngaribas on basic nursing skills to assist with community health education.

Corporal punishment in schools remained a problem. Caning was supported by a law that allows head teachers to cane a student for a documented serious offense. Following public outreach by the government and the media, the practice has begun to decline.

Family law provided for girls as young as 15 to be considered adults for the purposes of marriage. In order to marry, a girl under 18 was required to obtain the consent of her father, mother, or guardian; no consent is required for an orphaned girl with no guardian. The courts also had discretion to allow for marriages of parties who were 14 years old, for example in the case of pregnancy. Additionally, the law allows Muslim and Hindu girls to marry as young as 12 so long as the marriage is not consummated until the girl reaches the age of 15. To circumvent these laws, offenders bribed police or paid a bride price to the family of the girl to avoid prosecution.

Under the law sexual intercourse with a child under 18 years is considered rape regardless of consent; however, the law was not effectively enforced. Child sexual abuse remained a problem. There were several convictions during the year; most persons convicted for the sexual abuse of children were given the maximum sentence of 30 years' imprisonment.

The law criminalizes child pornography and child prostitution; however, sexual exploitation and trafficking in persons, including children, were problems. Persons found guilty of such offenses are subject to a fine ranging from Tanzanian shillings one million (\$740) to 500 million (\$370,000) and/or a prison term of one to 20 years.

There were reports that individuals practicing witchcraft killed children, especially children with albinism, for their body parts. For example, in October a ten-year-old boy with albinism was killed by attackers who were trying to remove one of his lower limbs. His body was buried in concrete to ensure the attackers did not return to steal his bones. At year's end no one had been charged for the killing.

Infanticide continued to be a problem, especially among poor rural mothers who believed themselves unable to afford to raise a child.

The number of orphans in the country was estimated at 2.5 million, most of them orphaned by AIDS. Most orphans were absorbed into other families. Those who were

not absorbed were extremely vulnerable individuals who received additional support and counseling from the government and several state-sponsored NGOs. There were significant numbers of street children in Dar es Salaam and Arusha. Street children had limited access to health and education services because they lacked a fixed address and money to purchase medicines, school uniforms, and books. They were also vulnerable to sexual abuse by older street children and homeless persons.

Trafficking in Persons.—The comprehensive Antitrafficking in Persons Act, which came into force during the year, prescribes punishments from one to 20 years' imprisonment for trafficking related offenses, depending upon the severity of the crime.

The country is a source, transit, and destination country for men, women, and especially children trafficked for the purposes of forced labor and sexual exploitation. Children in low-income families were at significant risk of being trafficked, especially girls who were often considered an economic burden on their families. Most victims were trafficked internally from poor rural areas. Boys were trafficked within the country to work on farms, in mines, and in the informal business sector. Girls from rural areas were trafficked to urban centers and the island of Zanzibar for domestic work. Sexual exploitation was often reported after young girls were brought into homes as domestic help.

Small numbers of persons were reportedly trafficked to South Africa, Saudi Arabia, the United Kingdom, and possibly other European countries for domestic servitude and sexual exploitation. Indian women who entered the country legally to work as entertainers in restaurants and nightclubs were at times exploited as prostitutes after arrival. Small numbers of Somali and Chinese women were also trafficked into the country and sexually exploited. There were several reports of Malawian men being brought in for forced labor in the fishing industry. It was believed that in tourist areas, such as Zanzibar and Arusha, some girls who were hired for hotel work, both locally and from India, were later coerced into prostitution.

During the year the African Network for the Prevention and Protection against Child Abuse and Neglect reported that Tanzanian children were being trafficked to Kenya. The organization discovered 17 children working in Kenya and returned three to Tanzania.

Trafficking methods varied. Victims were lured by false promises of income, opportunity to attend school, and better living conditions, especially from rural to urban areas. Some trafficking victims left their homes with assistance from their families; some left on their own to escape life in rural areas; and some were transported by someone who offered to help them find city work, legitimate or otherwise. There were reports that men recruited village girls who had completed primary school but were not entering secondary school. The men offered the girls money and employment and promised the girls a better life if they accompanied them to urban areas; however, these girls ended up in domestic labor or prostitution. Another method of trafficking involved low-income parents entrusting children to wealthier relatives or respected members of the community to care for the child as one of their own. Some took advantage of this traditional practice and placed children in abusive or exploitive situations such as domestic servitude or prostitution. Orphans were particularly vulnerable to trafficking.

Living conditions for trafficking victims were usually grim, with only the most basic amenities, long working hours, little or no pay, and missed educational opportunities.

During the year the International Office of Migration (IOM) worked with seven NGOs to provide assistance to victims and conduct prevention activities. Approximately 75 percent of trafficking victims who received counseling were female. Most were between the ages of 12 and 17 years and had been exploited as maids or housekeepers. Between September 2005 and October, the IOM and its NGO partners assisted 304 victims; during the year 96 victims were provided counseling, medical screenings, and educational opportunities.

The IOM also provided training to government officials and NGOs in the Arusha area on victims' assistance in an effort to set up a systematic referral process. The IOM continued to support awareness raising activities such as a theater show. Between July and September, the show visited the eight regions with the highest incidence of human trafficking.

The IOM also served as the coordinating office for the government's antitrafficking stakeholders meetings, which included various ministries, NGOs, UN agencies, and representatives of the international community.

In February the government transferred responsibility for all antitrafficking law enforcement efforts from the Anti-Human Trafficking Unit to the police's Interpol office, which has broad responsibility for transnational crime.

In December police arrested a man in Tarime on suspicion of trafficking two children from Kenya. He was charged under the new antitrafficking law. At year's end the case was pending. The arrest was the first under the new law.

There were no prosecutions for trafficking during the year; however, law enforcement, prosecutors, and immigration officials were trained in the new antitrafficking law and the Ministry of Health and Social Welfare developed a training manual for health workers who have direct contact with victims of trafficking.

In March a Rwandan woman who was attempting to traffic a Tanzanian child to France was convicted under the penal code by authorities in Mlandizi and paid a fine of Tanzanian shillings 300,000 (\$220).

The Ministry of Health and Social Welfare played the lead role in providing support services to victims but lacked sufficient resources. Counseling services for victims were inadequate.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The constitution prohibits discrimination against persons with disabilities, but there is no implementing law to prevent discrimination under this provision. Persons with physical disabilities were effectively restricted in employment, education, access to health care, and other state services by physical barriers and inadequate financial resources. Although the government mandates access to public buildings, transportation, and government services for persons with disabilities through several pieces of legislation, few buildings were accessible. Many buildings were constructed before this requirement came into force, and no funds were available for retrofitting existing structures. However, new public buildings were being built in compliance with the law. The law mandates that 2 percent of total employment be offered to persons with disabilities. However, this stipulation was not enforced.

There were three members of parliament with disabilities, appointed by the ruling party.

The Ministries of Education, Justice, and Labor were responsible for enforcing the protection of rights of persons with disabilities for education, legal claims, and labor rights, respectively. The Department of Social Welfare had responsibility for coordinating matters related to persons with disabilities.

There were approximately 2.4 million persons with disabilities in the country. The National Strategy for Economic Growth and Development provides for social services for the disabled and there have been some efforts to ensure social services were delivered. Action on Disability and Development, a UK-based NGO, reported that persons with disabilities were marginalized and often lived in abject poverty due to inadequate support mechanisms.

Local NGOs and a federation of NGOs called SHIVYAWATA tried to highlight the plight of persons with disabilities.

During the year the government started an education initiative to integrate students with disabilities into mainstream schools in order to reduce stigma. However, the program lacked adequate resources.

There were reports that students with disabilities dropped out of schools that lacked adequate facilities. For example, braille paper and tape recorders were generally not available for blind students. In August 2008 the NGO Media Network for Disability reported that 317 students with disabilities dropped out of school in Dodoma and Morogoro regions during that year. The report cited poverty and pregnancies as the chief reasons for dropping out. In April 2008 the principal of the Malangani School for the Blind in Rukwa Region claimed that that region had more than 600 blind children whose parents and guardians prevented them from attending school because they did not see the benefit of educating a child with a disability such as blindness.

Indigenous People.—In August international NGOs reported that local Field Force Units forcibly evicted Maasai pastoralists from their homes in LGCA. In 1992 the government gave a foreign corporation the rights to hunt in the LGCA during certain periods of the year. The pastoralists typically moved from the LGCA during hunting season but returned for the remaining months. In 2007, with drought conditions in some areas, the pastoralists did not migrate as they had. The Field Force Units allegedly forcibly removed the Maasai and burned their homes and crops when they refused to move at the start of hunting season. Police allegedly arrested and sentenced without due process pastoralists who refused to move. The government denied these allegations, claiming those evicted were Kenyans and criticized NGOs for exploiting and exaggerating the situation. In mid-September CHRAGG sent a team to investigate the alleged human rights abuses, but its report was pending at year's end (see section 1.c.).

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Homosexuality is illegal. The penal code makes it an offense punishable by up to five years in prison to have carnal knowledge of any person of the same sex. The law in Zanzibar establishes a penalty of up to 25 years' imprisonment for men who engage in homosexual relationships and seven years for women in lesbian relationships. There were no reports that anyone was punished under the law during the year. However, gays and lesbians faced societal discrimination.

In July a group of NGOs, including Global Rights, International Gay and Lesbian Human Rights Commission, and the Centre for Human Rights Promotion, submitted a "shadow" report to the UNHRC detailing the legal and societal discrimination faced by gays, lesbians, and transgendered persons. The report stated that the laws against homosexuality interfere with an individual's right to privacy and encourage the stigmatization of gays, lesbians, and transgendered persons. The groups called on the government to amend the penal code, which makes homosexuality a criminal offence.

In early October NGOs alleged that the arrest in Dar es Salaam of 39 individuals on prostitution charges was motivated by sexual orientation. Police made the arrests reportedly after receiving complaints from residents about prostituted persons in their neighborhood. However, NGOs indicated that residents were upset that members of two local gay and lesbian organizations were meeting in their neighborhood. At year's end the case was pending.

Other Societal Violence or and Discrimination.—The HIV/AIDS Act of 2008 prohibits discrimination against any person "known or perceived" to be HIV positive and establishes medical standards for confidentiality to protect persons living with HIV/AIDS. At year's end, however, there were no regulations to guide the implementation of this law. Although several governmental and nongovernmental organizations, including the Tanzania Parliamentarians' AIDS Coalition, addressed discrimination against persons infected with HIV/AIDS, and several such organizations felt that society was more accepting, problems persisted. According to the 2007/08 HIV/AIDS and Malaria Indicator Survey, there had been little change in attitudes towards persons living with HIV/AIDS since the last survey in 2003/04. There were continuing reports that discrimination in housing, healthcare, and education continued to occur against the estimated 1.3 million persons in the country living with HIV/AIDS.

The government, working with NGOs, continued to sensitize the public about HIV/AIDS-related discrimination and to create safeguards for HIV/AIDS patients' human rights. A network of lawyers, policymakers, and doctors continued lobbying efforts and other activities to deal with legal, ethical, and human rights problems associated with HIV/AIDS. During the year these groups drafted a stigma and discrimination strategy which was under review at year's end.

Section 7. Worker Rights

a. The Right of Association.—The union and Zanzibar governments have separate labor laws. Workers on the mainland had the right to form and join independent trade unions. Trade unions must consist of more than 20 employees and are required to register with the government. A trade union or employers' association must register within six months of its establishment; failure to register is a criminal offense. The registrar in the Ministry of Labor, Employment, and Youth Development exerts significant power over trade unions, including the right to deregister unions if overlap exists within an enterprise. Unions must submit financial records and a membership list to the registrar annually. The registrar can suspend a trade union if it determines that the union violated the law or endangered public security. Association with an international trade union requires government approval.

As of 2005 (the most recent data available), approximately 27 percent of the formal sector work force were members of the Trade Union Congress of Tanzania, the sole labor federation. In the agricultural sector, the country's single largest employer, an estimated 5 to 8 percent of the work force was unionized.

Mainland workers have the legal right to strike, and employers have the right to a lockout after complying with certain legal requirements and procedures. These rights are qualified according to the law. For example, all parties to a dispute may be bound by an agreement to arbitrate, and neither party may then engage in a strike or a lockout until that process has been completed. In October 2008 the government was granted a court injunction to stop hundreds of thousands of teachers from striking over unpaid salaries and allowances. A judge ordered the teachers and the government into arbitration before allowing the teachers to go on strike. In September the government stated it was verifying and auditing teacher claims for salaries and allowances, but planned to make payment in October. The audit was completed in late October and teachers began receiving their payments.

A lawful strike or lockout is protected and does not constitute a breach of contract, nor can it be considered a criminal offense. An employer may not terminate the employment of an employee for participating in a lawful strike or terminate an employee who accedes to the demands of an employer during a lockout.

The law restricts the right to strike when to do so would endanger the life and health of the population. Workers in certain sectors (water and sanitation, electricity, health services and associated laboratory services, firefighting, air traffic control, civil aviation telecommunications, and any transport services required for the provisions of these services) are restricted from striking. Workers in other sectors may also be subject to this limitation.

The labor law in Zanzibar applies only to private sector workers. Zanzibar government workers do not have the right to strike. They are not allowed to join mainland-based labor unions. The Zanzibar labor law requires a union with 50 or more members to be registered and sets literacy standards for trade union officers. An estimated 40 percent of the Zanzibar workforce is unionized. In collaboration with the International Labor Organization (ILO), the Zanzibar government worked to redraft its labor laws during the year but legislation had not been finalized by year's end.

b. The Right to Organize and Bargain Collectively.—The law provides for collective bargaining in the private sector, and workers and employers practiced it freely during the year. In the public sector, the government sets wages administratively, including for employees of state-owned organizations.

On the mainland disputes are regulated and resolved by mediation through the Commission for Mediation and Arbitration. If the mediator fails to resolve a dispute within 30 days of referral, or any longer period agreed upon in writing by both parties, either party to the dispute may give notice of its intention to commence a strike or lockout. If the mediation fails to resolve the complaint, the Commission for Mediation and Arbitration may appoint an arbitrator to decide the dispute, or it may be referred to the labor court.

In practice many private sector employers adopted antiunion policies or tactics. On the mainland the law prohibits discriminatory activities by an employer against union members; however, in August an ILO consultant told the Daily News that trade union rights were affected by antiunion discrimination and limitations on the right to strike. In some instances employers did not allow unions to recruit at their work sites and threatened employees interested in joining a union with termination. These cases were reportedly resolved informally. The law requires employers found guilty of antiunion activities to reinstate workers.

On the mainland there are 23 export processing zones (EPZs); seven of them are developer licensees and the rest are operator licensees. In Zanzibar there are three free economic zones, which are treated as EPZs. There are no special laws or exemptions from regular labor laws in EPZs.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor; however, there were reports that such practices, especially by children, occurred. In some instances, girls from rural areas were forced to do domestic work, while boys were sent to work on farms, in mines, and in the informal business sector. The IOM reported that men from Malawi were forced to work in the fishing industry.

The law allows prisoners to work without pay on construction and agriculture projects within the prison so that the prison can be more self-sufficient. Prisoners were also used as labor on projects outside of the prison, such as road repair and government construction projects.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits the exploitation of children in the workplace. Under the law the minimum age for contractual employment is 14. Children may be employed only to do light work unlikely to harm their health and development or attendance at school. Children under the age of 18 may not crew on a ship or be employed in a mine, factory, or any other worksite where working conditions may be hazardous.

The law establishes criminal penalties for employers of child labor as well as forced labor; violators can be fined an amount not exceeding Tanzanian shillings 4,680,000 (\$3,500), imprisonment for one year, or both. Although the Ministry of Labor, Employment, and Youth Development reportedly conducted inspections and issued warnings to violators of child labor statutes, there were no reported child labor cases brought to court during the year. Likewise, Zanzibar's Ministry of Labor, Youth Development, Women, and Children did not take legal action related to child labor. A shortage of inspectors resulted in limited enforcement of child labor provisions, and child labor continued to be a problem. According to the Integrated Labor Force Survey of 2006, approximately 19 percent of children ages five to 17 years

were engaged in child labor on the mainland. In Zanzibar an estimated 8 percent of children ages five to 17 were engaged in child labor.

Child labor was also widespread in Zanzibar; children were used in fishing, clove picking, domestic labor, small businesses such as selling cakes, and commercial sexual exploitation near tourist attractions.

On April 23, Rahma Mshangama, the principal secretary in the Zanzibar Ministry of Employment, Youth, Women, and Children, reported that 2,000 children were rescued from child labor in the fishing and seaweed farming industries on the islands between 2007 and 2009. The Ministry of Labor, Employment, and Youth Development was responsible for enforcement of labor laws, together with the Commission for Mediation and Arbitration and the labor court. The ministry continued conducting seminars on child labor in different parts of the country.

Several government ministries, including the Ministry of Labor, Employment, and Youth Development, have special child labor units.

The government took a number of steps to decrease child labor. These included the establishment of the Child Labor Monitoring System to coordinate all national efforts related to child labor as well as the creation of district child labor subcommittees. Child labor issues were integrated into the Complementary Basic Education curriculum and the teacher training college curriculum.

Other measures to ameliorate the problem included ensuring that children of school age attended school, imposing penalties on parents who did not enroll their children in school, and sensitizing employers in the formal sector against employing children below the age of 18.

The government revised the Child Development Policy to include prohibitions against the worst forms of child labor and conducted outreach to educate citizens about the policy.

The national intersectoral committee on child labor within the Office of the Prime Minister, which includes representatives from several ministries and the NGO community, met in February and again in September. According to an ILO official, the government expressed its commitment to fight child labor and strengthen local structures for its elimination. The government collaborated with NGOs by providing technical expertise in agriculture and qualified trainers, as well as the necessary allowances and in some cases a budget to support child labor related activities. For example, the Igunga District Council set aside Tanzanian shillings 7,000,000 (\$5,200) for child labor related activities during the year.

e. Acceptable Conditions of Work.—New minimum wage standards took effect in January 2008. Divided into eight employment sectors, the lowest minimum wage was Tanzanian shillings 65,000 (\$50) per month for hotel workers and the highest, Tanzanian shillings 350,000 (\$260) per month for workers in the mineral sector. These monthly wages were above the poverty line of Tanzanian shillings 13,998 (\$11) per month per person established by the 2006/07 Household Budget Survey. Implementation proved difficult for some businesses, which complained that they would have to raise salaries more than 100 percent. The labor laws cover all workers.

There were reports that some employers offered only short-term contracts of three to six months to avoid the salary and benefit requirements. During the year trade unions expressed their discontent over pay raises given by the government to certain high-level government officials, including judges, ministers, and their deputies, as well as regional and district commissioners.

There was no standard legal workweek for private sector workers, but most private employers retained a six-day, 44- to 48-hour workweek. A five-day, 40-hour workweek was in effect for government workers. Under most circumstances, it was illegal to employ women to work between 10:00 p.m. and 6:00 a.m.; however, employers frequently ignored this restriction. The ILO reported that some workers were forced to work overtime under the threat of being fired.

Several laws regulate safety in the workplace. The Ministry of Labor, Employment, and Youth Development managed an inspection system; however, its effectiveness was limited due to lack of resources and the small number of labor officers available to conduct the inspections. Labor standards were not enforced in the informal sector, where most of the workforce was employed.

Workers could sue an employer if their working conditions did not comply with the Ministry of Labor, Employment, and Youth Development's health and environmental standards. There were no reported incidents during the year. Disputes are generally resolved through the Commission for Mediation and Arbitration. There were no exceptions for foreign or migrant workers.

TOGO

Togo, with a population of 6.3 million, is a republic governed by President Faure Gnassingbe, who was declared president in 2005 in an election marred by severe irregularities. President Faure Gnassingbe replaced his father, former president Gnassingbe Eyadema, who died in 2005 after 38 years in power. Eyadema and his party, Rally of the Togolese People (RPT), strongly backed by the armed forces, dominated politics and maintained firm control over all levels of the highly centralized government until his death. In 2007 the Independent National Electoral Commission (CENI) organized generally free and fair legislative elections for the 81 seats in the National Assembly. All major opposition parties participated in the elections, and the opposition won a total of 31 seats. While civilian authorities generally maintained effective control of the security forces, there were instances in which elements of the security forces acted independently.

The human rights situation in the country improved; however, serious human rights problems continued, including the following: partial inability of citizens to change their government; abuse of detainees; official impunity; harsh and life-threatening prison conditions; arbitrary arrests and detention; lengthy pretrial detention; executive influence over the judiciary; infringement of citizens' privacy rights; restrictions on the press; restrictions on freedom of assembly and movement; corruption; female genital mutilation (FGM); discrimination and violence against women; regional and ethnic favoritism; trafficking in persons, especially children; child labor, including forced child labor; and lack of workers' rights in export processing zones.

RESPECT FOR HUMAN RIGHTS

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

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

There were no developments in the 2008 death of a former government minister found dead on a beach in Lome. The case officially stands as a drug overdose despite a contrary finding by a coroner from the international nongovernmental organization (NGO) Physicians for Human Rights.

Despite promises to investigate, by year's end the government had not released a report on the 2007 killing of a soldier guarding the national radio station, Radio Lome.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution prohibits such practices; however, they continued to occur. In January a UN special rapporteur noted the government's commitment to combat torture. However, during his visits to police and gendarmerie stations, he found evidence of abuse by law enforcement officials during interrogation of detainees and beatings by prison guards. He also observed that young persons and children were at risk of corporal punishment while in detention.

Unlike in the previous year, the international NGO Amnesty International (AI) reported no cases of torture of detainees. However, abuse and mistreatment of prisoners continued. Impunity remained a problem, and the government did not publicly prosecute officials for such abuses.

In August during a joint mission by the UN and African Union special rapporteurs on human rights defenders, the rapporteurs noted that the number of attacks and acts of intimidation against human rights defenders had decreased; however, they expressed concern about the stigmatization of the defenders and impunity for violations against them.

According to AI no progress was reported in resolving complaints lodged by victims of electoral violence in 2005.

Unlike in the previous year, there were no reports of security forces raping prostitutes.

Prison and Detention Center Conditions.—Prison conditions remained harsh, with serious overcrowding, poor sanitation, and unhealthy food. In April the media reported that prisoners were dying of hunger and received typically one meal a day worth 150 CFA francs (\$0.33) because the prison system did not have adequate funds. Medical facilities were inadequate, and disease and drug abuse were widespread. Sick prisoners reportedly had to pay 1,500 CFA francs (\$3.30) to guards before being allowed to visit the infirmary. There were reports that prison officials sometimes withheld medical treatment from prisoners. Lawyers and journalists reported that prison guards charged prisoners a small fee to shower, use the toilet,

or have a place to sleep. Local press reported that prison guards sexually harassed female prisoners.

While there were no official statistics on the number of prison deaths, the warden of the Central Prison of Lome confirmed two deaths during the year.

At year's end the expanded Central Prison of Lome, which normally accommodated 666, held 1,759 prisoners, including 59 women and 25 juveniles. The infants of convicted women were incarcerated with their mothers when they refused to allow the infants to stay with extended family. Pretrial detainees were not held separately from convicted prisoners.

Local NGOs accredited by the Ministry of Justice could visit the prisons any time, although the process of acquiring an accreditation could take up to a year. International NGOs must negotiate an agreement with the government to gain similar access to prisons. During the year the International Committee of the Red Cross (ICRC) and other international human rights organizations were allowed prison access.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention; however, the government did not always respect these prohibitions.

Role of the Police and Security Apparatus.—The security forces consist of the army, navy, air force, national security service (including the national police and investigation bureau), and the gendarmerie. The police are under the direction of the Ministry of Security, which reports to the prime minister. The Ministry of Defense, which reports directly to the president, oversees the military. The Ministry of Security oversees the gendarmerie. Police and gendarmes are responsible for law enforcement and maintenance of order. The army is in charge of external security. In 2008 approximately 80 percent of the army's officers and soldiers were from the previous and current presidents' ethnic group, the Kabyle, which constitutes approximately 23 percent of the population.

Police generally were ineffective and corrupt, and impunity was a problem. Police often failed to respond to societal violence. The government in general did not investigate or punish effectively those who committed abuses, nor did it prosecute persons responsible in previous years for unlawful killings and disappearances. No progress was made in examining complaints from more than 100 victims of human rights abuses committed during the 2005 presidential election. In 2007 the victims were asked to pay 25,000 CFA francs (\$50) to the court to move their cases forward. Some were unable to pay and withdrew their complaints. Others paid the requested fee but still saw no progress on their cases during the year.

In October 2008 the military trained approximately 40 senior and junior officers and subordinates under the theme "the role of the armed forces in the promotion and protection of human rights."

There were no developments in the 2007 random beating of civilians by newly recruited police agents in Lome.

Arrest Procedures and Treatment While in Detention.—The law authorizes judges, senior police officials, prefects, and mayors to issue arrest warrants; however, persons were detained arbitrarily and secretly. Although detainees have the right to be informed of the charges against them, police sometimes ignored this right. The law allows authorities to hold arrested persons incommunicado without charge for 48 hours, with an additional 48-hour extension in cases deemed serious or complex. The law stipulates that a special judge conduct a pretrial investigation to examine the adequacy of evidence and decide on bail; however, in practice detainees often were held without bail for lengthy periods with or without the approval of a judge. Family members and attorneys officially had access to a detainee after 48 or 96 hours of detention, but authorities often delayed, and sometimes denied, access. On December 11, the government announced the creation of a fund of CFA 250 million (\$550,000) to provide legal services for the indigent.

On April 15, Kpatcha Gnassingbe, a member of the national assembly and half brother to President Faure, and 32 others, were arrested on charges of coup plotting. The ICRC and other human rights organizations were allowed access to the detainees. Attorneys representing Kpatcha claimed that due process was not followed, a charge denied by the minister of human rights, who stated that Kpatcha had declined legal representation, even though his wife had hired two attorneys. Public opinion and media reporting focused primarily on Kpatcha's status; that of the other detainees was largely ignored. All 33 remained in custody at year's end.

On April 24, the Togolese League of Human Rights stated that an unknown number of persons were arrested for outstanding debts and detained in gendarmeries and police stations for more than 48 hours. Arrests for failure to pay debt are not lawful.

A number of persons detained in 2005 in connection with election-related violence continued to be held without trial in the Central Prison of Lome, including suspected critics of the government, although the government continued to claim that there were no political prisoners. An accurate count of the detainees was not available.

A shortage of judges and other qualified personnel, as well as official inaction, resulted in lengthy pretrial detention—in some cases several years—and confinement of prisoners for periods exceeding the time they would have served if tried and convicted. Almost 80 percent of inmates were pretrial detainees.

e. Denial of Fair Public Trial.—Although the constitution provides for an independent judiciary, the executive branch continued to exert control over the judiciary, and corruption was a problem. Lawyers often bribed judges to influence the outcome of cases. The court system remained overburdened and understaffed.

There were three associations of magistrates in the country: the Union of Magistrates of Togo (SMT), the National Association of Magistrates (ANM), and the Professional Association of Magistrates of Togo (APMT). A majority of the APMT members were supporters of President Gnassingbe's party, the RPT. Judges who belonged to the pro-RPT APMT reportedly received the most prestigious assignments, while judges who advocated an independent judiciary and belonged to the ANM or SMT often were assigned to second-tier positions. For example, the president of the Constitutional Court was the founder and leader of the APMT; in Lome, the presidents of the Supreme Court, Court of Appeals, and Court of First Instance were members of the APMT as were the public prosecutor and the attorney general. In Kara, the president of the Court of Appeals and the president of the Court of First Instance were members of the APMT.

The Constitutional Court is the highest court for constitutional issues while the Supreme Court is the highest court for civil judicial cases. The civil judiciary system includes the Supreme Court, appeals courts, and courts of first instance. A military tribunal exists for crimes committed by security forces; its proceedings were closed. The military court cannot try civilians and does not accord military defendants the same rights as civilians.

Trial Procedures.—The judicial system employs both traditional law and the Napoleonic Code in trying criminal and civil cases. Defendants do not enjoy a presumption of innocence. Trials were open to the public, juries were used, and judicial procedures generally were respected. Defendants have the right to be present at their trials and have the right to counsel and to appeal. All defendants have the right to an attorney, and the bar association provides attorneys for the indigent. Defendants may confront witnesses and present witnesses and evidence on their own behalf. Defendants have the right to access government-held evidence relevant to their cases, but in practice were denied that right.

The law extends these rights to all citizens; however, women who were uneducated or came from rural areas tended not to be aware of or feared claiming their rights.

In rural areas the village chief or a council of elders is authorized to try minor criminal and civil cases. Those who reject the traditional authority can take their cases to the regular court system, which is the starting point for cases in urban areas.

Political Prisoners and Detainees.—The government denied the existence of political detainees; however, six persons arrested after the 2005 election and affiliated with the opposition reportedly were being held in a prison near Kara, an area of strong RPT support. AI reported that dozens of persons were in detention following the election. Security forces sometimes moved political detainees to informal detention centers under the control of the military or RPT militia. Because the government did not acknowledge any political detainees, it did not permit any organizations to have access to them.

Civil Judicial Procedures and Remedies.—Both the constitution and the law provide for civil and administrative remedies for wrongdoing, but the judiciary did not respect such provisions, and most citizens were unaware of them.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and law prohibit such actions, and the government generally respected these prohibitions in practice. In criminal cases a judge or senior police official may authorize searches of private residences; in political and national security cases, security forces need no prior authorization.

Citizens believed that the government monitored telephones and correspondence, although such surveillance was not confirmed.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution and law provide for freedom of speech and of the press; however, the government continued to restrict these rights. During the year the government at times interfered with radio stations. Journalists and radio and television broadcasters practiced self-censorship.

Although the government did not officially censor individual expression, most persons practiced self-censorship because of past violent reprisals by government agents.

There was a lively independent press, most of which was heavily politicized, and some of which was highly critical of the government. More than 25 privately owned newspapers were published with some regularity. The only daily newspaper, *Togo-Presse*, was owned and controlled by the government. The official media heavily slanted their content in favor of the government.

Radio remained the most important medium of mass communication. Some private radio stations broadcast domestic news.

International media were allowed to operate freely.

The government-owned Togo Television was the only major television station. Eight smaller television stations operated during the year—four covering sports or religion, two private political stations, and two independent stations—but broadcast only to limited geographic areas. TV7, an independent station, also carried weekly political debates through the program *Seven on Seven*, a political forum in which governing and opposition party leaders, human rights organizations, and other observers participated in discussions of political issues and expressed either criticism of or support for the government. *La Chaîne du Futur*, a private station established in 2008 and similar to TV7, reported positively on the ruling government.

The constitution established the High Authority of Audiovisuals and Communications (HAAC) to provide for freedom of the press, ensure ethical standards, and allocate frequencies to private television and radio stations. Although nominally independent, in practice the HAAC operated as an arm of the government.

In January *Radio Victoire* was pulled off the air for failing to comply with the HAAC's instruction to ban a foreign journalist from participating in a radio discussion on a sports program which criticized the Togolese Confederation of Football.

In February Daniel Lawson-Drackey, a journalist with Nana FM radio, was indefinitely suspended from the air by the HAAC after making comments critical of the authorities. The National Commission on Human Rights ruled that this decision violated the right to information and the right to press freedom. Lawson-Drackey was working for Nana FM at year's end, although one of his programs criticizing the government remained suspended.

In July the HAAC suspended the interactive program of *Radio Lumière*, a station in Aného, southern Togo. The radio station allowed callers to comment freely on the Kpatcha affair.

Internet Freedom.—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics for 2008, approximately 5 percent of the country's inhabitants used the Internet.

Academic Freedom and Cultural Events.—The government intimidated academics by maintaining a security force presence at the University of Lomé. According to students and professors, a government informer system continued to exist, and undercover gendarmes attended classes.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The constitution and law provide for freedom of assembly; however, the government generally restricted this right, although less than in previous years. On January 9, students of *Ecole Nationale des Auxiliaires Médicaux* boycotted their classes to push for improved working and living conditions. Security forces were deployed to disperse the protest but no violence occurred. Students returned to their classes after Minister of Health Komlan Mally intervened.

On January 21, students at the African School for Architecture and Urban Planning held protests during which security force members severely beat several protestors. Students returned to their classes following intervention by President Faure and the minister of technical and professional training.

Freedom of Association.—Under the constitution and law, citizens have the right to organize associations and political parties, and the government generally respected this right in practice.

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

The government recognizes three main faiths as state religions: Roman Catholicism, Protestantism, and Islam. Other religious groups, such as animists, The Church of Jesus Christ of Latter Day Saints, and Jehovah's Witnesses, were required to register as associations. Official recognition as an association affords a group the same rights as the state religions.

Societal Abuses and Discrimination.—The Jewish community was very small, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf/

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation; however, the government restricted some of these rights in practice. Checkpoints with armed security personnel and arbitrary searches of vehicles and individuals were common. Security forces frequently demanded bribes, which impeded freedom of movement. Although the government reduced the number of official checkpoints to four countrywide, there were many unofficial checkpoints where security forces solicited bribes.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The constitution prohibits forced exile, and the government did not employ it. However, several opposition and human rights workers remained in self-imposed exile because they feared arrest.

According to the UNHCR, approximately 3,000 Togolese refugees remained in Benin, and the number of Togolese refugees in Ghana was unknown. They received assistance from the UNHCR, which facilitated repatriation for those wishing to return to Togo and local integration for refugees who would not or could not return.

Protection of Refugees.—The country is a party to the 1951 Convention relating to the Status of Refugees, the 1967 Protocol relating to the Status of Refugees, and the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. Its laws do not provide for the granting of asylum or refugee status in accordance with the 1951 Convention, but the government has established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The government facilitated local integration for remaining Ghanaian refugees. Most were well integrated in host communities and required no humanitarian assistance. A voluntary repatriation program for 508 Ghanaian refugees remained unimplemented due to lack of resources.

The government continued to provide temporary protection to approximately 521 individuals who may not qualify as refugees under the 1951 convention and its 1967 protocol.

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

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right partially through legislative elections in 2007 declared to be generally free and fair by the international community. However, the national assembly exercised no real oversight of the executive branch of the government. In 2005 Faure Gnassingbe was declared president in an election characterized by international observers as marred by severe irregularities and violence, including the deaths of an estimated 500 persons.

After the 2007 elections, the national assembly comprised three political parties, although cabinet members were drawn largely from the party of the president. The government remained highly centralized. The national government appoints officials and controls the budgets of government entities at all levels, including prefectures and municipalities, and influences the selection of traditional chiefs.

Elections and Political Participation.—In 2007 citizens voted to elect the 81 members of the national assembly in 31 electoral districts, choosing from 2,000 candidates who ran on 395 party lists. International and national observers monitored the elections and declared them to be generally free, fair, transparent, and peaceful.

The CENI later announced that the ruling RPT had won 50 seats, the Union of Forces for a Change (UFC) 27 seats, and the Action Committee for Renewal (CAR)

four seats. The Constitutional Court, which is the final arbiter of all electoral issues, concurred and issued definitive results on October 30.

A new government was appointed in September 2008 after the resignation of Prime Minister Komlan Mally following the completion of his mandate.

Political parties are required to provide a 48-hour advance notification to the government for any public activity. They are also subject to restrictions in calling for demonstrations or strikes, which may be monitored by security forces.

In August 2008 the government prohibited two opposition parliamentarians from leaving the country because they did not notify the president of the national assembly of their travel plans.

There were nine female members of the national assembly and four female ministers in the 28-member cabinet.

Members of the southern ethnic groups remained underrepresented in both the government and military.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. The April 2008 government's interim poverty reduction strategy paper noted that corruption and lack of transparency in the management of public funds was a problem throughout the government. According to the World Bank's Worldwide Governance Indicators for 2008, government corruption was a severe problem.

Corruption was common among prison officials, police officials, and members of the judiciary (see sections 1.c., 1.d., 1.e., and 2.d.).

There were no further developments in the 2007 corruption allegations levied by the Anti-Corruption Committee against the director general of the Social Security Agency, who remained in his position at year's end.

The constitution provides for the creation of a court of accounts to oversee public expenditures. The court was established on September 24 and is an independent entity with an autonomous budget.

Officials were not subject to financial disclosure laws.

Although the press code provides for public access to government information, the government did not permit access for either citizens or noncitizens, including foreign media. Reasons for denial were not given.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials sometimes were cooperative but typically were not responsive to NGO recommendations.

There were several domestic private human rights groups, including the Togolese League of Human Rights, the Center for Observation and Promotion of the Rule of Law, and the Togolese Association for the Defense and Protection of Human Rights. Years of government threats and intimidation of human rights leaders, combined with a lack of results from human rights initiatives, have led some human rights groups to become inactive.

The government generally cooperated with international governmental organizations and permitted visits by UN representatives or other organizations such as the ICRC (see section 1.c.).

A permanent human rights committee exists within the national assembly, but it did not play any significant role in policymaking and was not independent of the government.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law prohibit discrimination based on race, gender, religion, disability, language, or social status; however, the government did not enforce these provisions effectively.

Women.—The law criminalizes rape and provides for prison terms of five to 10 years for anyone found guilty of the crime. The prison term is 20 years if the victim is a child under 14, is gang-raped, or if the rape results in pregnancy, disease, or incapacitation lasting more than six weeks. The law does not specifically outlaw spousal rape. Although the government was diligent in investigating and prosecuting reports of rape, victims were reluctant to report it because of the social stigma associated with being raped. Rape was thought to be a widespread problem throughout the country. During the year 24 persons were arrested for rape. At

year's end all were in prison, some awaiting trial and others awaiting convictions to be formalized.

The law does not specifically prohibit domestic violence, and domestic violence against women continued to be a widespread problem. According to a local NGO, 614 women in Lome reported being victims of domestic violence in 2008. Police generally did not intervene in abusive situations, and women were not made aware of the formal judicial mechanisms designed to protect them. Although there were no official efforts to combat domestic violence, several NGOs were active in combating the problem and making women aware of their rights.

The law prohibits prostitution, including operating a brothel, and provides for fines of up to one million CFA francs (\$2,200) for brothel owners and panderers. Prostitution in Lome was fairly widespread. In 2008 several prostituted women in Lome reported that they had to bribe security forces or offer sex to pass through certain parts of town and that failure to do so often resulted in rape; however, there were no such reports during the year.

A presidential decree, issued in 1984, prohibits sexual harassment and specifically mentions harassment of female students; however, authorities did not enforce the decree. While the law states that harassment is illegal and can be taken to court, no definitive punishment is prescribed.

The government recognized the right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children. Health clinics and local NGOs were permitted to operate freely in disseminating information on family planning under the guidance of the Ministry of Health. There were no restrictions on the right to access contraceptives but only about 11 percent of the inhabitants used these measures. The government did not provide free childbirth services, and the lack of sufficient doctors meant most women used midwives for childbirth as well as for pre- and postnatal care, unless the mother or child suffered serious health complications. Men and women of heterosexual orientation received equal access to diagnosis and treatment for sexually transmitted infections, including HIV, but women were more likely than men to seek treatment and refer their partners. Men of homosexual orientation did not receive equal access to these services.

Although the law declares women equal under the law, women continued to experience discrimination in education, pension benefits, and inheritance. This was a consequence of traditional law, which applies to the vast majority of women. A husband legally can restrict his wife's freedom to work or control her earnings. In urban areas women and girls dominated market activities and commerce; however, harsh economic conditions in rural areas, where most of the population lived, left women with little time for activities other than domestic tasks and agricultural fieldwork. The labor code requires equal pay for equal work, regardless of gender, but this provision generally was observed only in the formal sector. There are no restrictions on women owning property. Under traditional law a wife has no maintenance or child support rights in the event of divorce or separation and no inheritance rights upon the death of her husband. Otherwise, women can own property with no special restrictions. Polygyny was practiced. Women did not experience economic discrimination in access to employment, credit, or managing a business.

As in the previous years, the Ministry of Social Affairs, Promotion of Women, and Protection of Children and the Elderly, along with independent women's groups and concerned NGOs, continued to campaign to inform women of their rights.

Children.—Citizenship is derived either from birth within the country's borders or from the father's citizenship. If the father does not have a nationality or it is unknown, the mother's citizenship transfers to the child.

The government provided education in state schools, and school attendance is compulsory for both boys and girls until the age of 15. In October 2008 the government announced that tuition for public nursery schools and primary schools would be free. According to the UN Children's Fund (UNICEF), although 92 percent of boys and 85 percent of girls started primary school, only an estimated 58 percent of boys and 41 percent of girls finished primary school. For secondary school, the net enrollment was 34 percent for boys and 12 percent for girls, but only 19 percent of boys and 9 percent of girls completed secondary school.

Child abuse was a widespread problem. Although the law explicitly prohibits sexual exploitation of children and child prostitution, the law was not effectively enforced. The government continued to work with local NGOs on public awareness campaigns to prevent exploitation of children.

The law prohibits FGM; however, according to UNICEF, FGM continued to be perpetrated on approximately 6 percent of girls, mostly in rural areas. It was believed the practice had decreased significantly in urban, but not rural, areas since the 1998 anti-FGM law was passed. The most common form of FGM was excision,

which was usually performed on girls a few months after birth. Most of the larger ethnic groups did not practice FGM. Penalties for practitioners of FGM range from two months to five years in prison as well as substantial fines. However, the law rarely was applied because most FGM cases occurred in rural areas where awareness of rights was limited. Traditional customs often took precedence over the legal system among certain ethnic groups. The government continued to sponsor seminars to educate and campaign against FGM. Several NGOs, with international assistance, organized campaigns to educate women of their rights and how to care for victims of FGM. NGOs also worked to create alternative labor opportunities for former practitioners.

According to several international organizations, child marriage, especially in the north and among Muslims, existed on a small scale. Cases were often not reported as parents freely gave their children in marriage.

A private radio station, Radio Zephir, sponsored by the international NGO Plan International and partially subsidized by the government, broadcasts a weekly program for children titled "Children Also Have Rights."

During the year the government established a toll-free line for persons to report cases of child abuse and seek help. The line provides free information on the rights of the child and legal procedure. The government also established school curriculum to educate children on human rights and, working with UNICEF, trained teachers on children's rights.

In 2007 the government implemented the country's first child code which provides for the protection of children's economic, psychological, and moral rights and includes national and international standards intended to protect children. The code prohibits child trafficking, child prostitution, child pornography, the employment of children in armed conflict, and other worst forms of child labor, including the selling of children for sexual exploitation, forced labor, or servitude. Government efforts to implement the code resulted in the release during the year of hundreds of children were released from service as assistants to traditional healers. During the year the International Labor Organization launched a program to raise awareness and rescue children from trafficking and enforced labor.

Orphans and other needy children received some aid from extended families or private organizations but little from the government. There were social programs to provide free health care for poor children.

Trafficking in Persons.—The law prohibits trafficking in children but not adults. The country remained a country of origin, transit, and destination for trafficked persons, primarily women and children. Trafficking occurred throughout the country at both official points of entry and covertly at unrecognized, unmonitored border crossing points.

The majority of trafficking victims were children from the poorest rural areas, particularly those of Kotocoli, Tchamba, Ewe, Kabye, and Akposso ethnicity and mainly from the Maritime, Plateau, and Central regions. More young girls than boys were victims of trafficking. Trafficking in women for the purposes of prostitution or forced labor as domestic servants were problems.

Most trafficking occurred internally, with children trafficked from rural areas to cities, primarily Lome, to work as domestics, produce porters, or roadside sellers. However, according to the UN Office on Drugs and Crime (UNODC), Togolese children represented 30 percent of internationally trafficked victims recorded in eight West African countries. Children were trafficked to Benin for indentured servitude and to Cote d'Ivoire and Ghana for domestic servitude, which amounted at times to slavery. Boys were trafficked for agricultural work to Cote d'Ivoire, Nigeria, and Benin, and to Gabon for domestic servitude and street labor. They were fed poorly, clothed crudely, cared for inadequately, given drugs to work longer hours, and not educated or permitted to learn a trade. There were reports that young girls were trafficked to Nigeria for prostitution.

The country also was a transit point for children trafficked from Burkina Faso, Ghana, Cote d'Ivoire, and Nigeria. There were credible reports that Nigerian women and children were trafficked through the country to Europe (particularly Italy and the Netherlands) for the purpose of prostitution. Victims were trafficked elsewhere in West Africa and to Central Africa, particularly Cote d'Ivoire, Nigeria, and Gabon; to Europe, primarily France and Germany; and to the Middle East, including Lebanon and Saudi Arabia.

Traffickers were believed to be men and women of Togolese, Beninese, and Nigerian nationalities. Adult victims usually were lured with phony job offers. Children often were trafficked abroad by parents misled by false information. Sometimes parents sold their children to traffickers for 10,000 CFA francs (\$22) or for commodities such as bicycles, radios, or clothing and signed parental authorizations transferring their children to the custody of the trafficker.

Traffickers are penalized with sentences of five to 10 years in prison and fines of five to 10 million CFA francs (\$11,000 to \$22,000). The 2005 Law for the Repression of Child Trafficking provides for prison sentences and fines for anyone who recruits, transports, hosts, or receives trafficked children, as well as prison sentences for parents who willingly facilitate the trafficking of their children. The law provides for prison sentences from three months to 10 years and fines ranging from one to 10 million CFA francs (\$2,200 to \$22,000) for traffickers of children or their accomplices. Anyone who assists or provides information, arms, or transportation to facilitate the trafficking is considered an accomplice.

The government had little or no funding to investigate traffickers. Police had limited success in intercepting victims of trafficking, and prosecution of traffickers was rare. Detained traffickers often paid a bribe to secure their release. During the year 13 traffickers were arrested; at year's end, 10 were in prison awaiting their sentences. The remaining three were on parole but had to report to court regularly.

Four of the 10 traffickers arrested in 2008 were released following their trial; the remaining six were in prison at year's end.

The government, along with international and local NGOs and some diplomatic missions, continued to train judges, security forces, and local volunteer committees on the 2005 antitrafficking law and other existing texts.

The National Committee for the Reception and Social Reinsertion of Trafficked Children is the focal point for statistics on child trafficking and is represented in each prefecture. The committee worked with local officials to reintegrate returned trafficking victims, and during 2008 assisted in the repatriation of 67 trafficked children. Most of these children were integrated into their communities.

The government provided only limited assistance for victims, primarily because of a lack of resources. The NGO *Terre des Hommes* assisted recovered children until their parents or other next of kin could be notified. Assistance was also available from the government-funded Social Center for Abandoned Children. The center sends recovered children to school or finds apprenticeships for them. CARE International-Togo worked with NGOs including *Terre des Hommes*, *La Colombe*, The Network to Fight against the Trafficking of Children (RELUTET), and *Ahuefaon* on reintegration of trafficked children, awareness campaigns for parents and communities, keeping children in school, and supporting women's income-generating activities.

Government agencies involved in antitrafficking efforts included the Ministry of Social Affairs, Promotion of Women, and Protection of Children and the Elderly; the Ministry of Health; the Ministry of Security; the Ministry of Justice; the Ministry of Labor, Employment, and Social Security; and the security forces (especially police, army, and customs units). The government cooperated with NGOs and the governments of Ghana, Benin, and Nigeria under a quadripartite law allowing for expedited extradition among those countries. In May UNODC and the government conducted a seven-day trafficking in persons awareness campaign in several regions of the country.

During the year the government created observation groups in each state called the Regional Committees for the Promotion of Children's Rights. These groups act as informants of any suspicious activities in terms of children's displacement.

In 2008 local officials, especially the Ministry of Social Affairs, Promotion of Women, and Protection of Children and the Elderly, worked closely with numerous NGOs, including Plan Togo, the World Association for Orphans-Afrique, CARE International-Togo, and *Terre des Hommes*, to conduct public awareness campaigns and training workshops for lawyers, journalists, judges, NGO representatives, and security personnel. The International Labor Organization (ILO) and UNICEF assisted the government in organizing and training regional and local committees and in sensitizing and educating parents on the dangers of child trafficking and labor throughout the country.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip

Persons With Disabilities.—A law enacted in 2005 prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, but the government did not effectively enforce these provisions. There was no overt government discrimination against persons with disabilities, and some held government positions, but societal discrimination against persons with disabilities was a problem. The government does not mandate accessibility to public or private facilities for persons with disabilities, although some public buildings have ramps. While the law nominally obliged the government to aid persons with disabilities and shelter them from social injustice, the government provided only limited assistance.

The Agency for Handicapped Persons, under the Ministry of Social Action, Women's Promotion, and the Protection of Children and the Elderly, is responsible for protecting the rights of persons with disabilities. During the year the ministry held awareness campaigns against discrimination and to promote equality. It distributed food and clothing and provided some skills training to persons with disabilities.

National/Racial/Ethnic Minorities.—The relative dominance in private sector commerce and professions of members of southern ethnic groups, and the relative prevalence in the public sector and especially the security forces of members of the former and current presidents' Kabye and other northern groups, were sources of political tension. Political parties tended to have readily identifiable ethnic and regional bases: the RPT party was more represented among northern ethnic groups than among southern groups; the reverse was true of the UFC and CAR opposition parties.

In addition, due to the congruence of political divisions and ethnic and regional divisions, human rights abuses motivated by politics at times had ethnic and regional overtones.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Homosexual conduct is illegal but the law was rarely enforced. The penal code provides that a person who engages in a homosexual act may be punished by one to three years imprisonment and fined 100,000 to 500,000 CFA francs (\$220 to \$1,100).

There was societal discrimination based on sexual orientation.

Other Societal Violence or Discrimination.—A 2005 law prohibits discrimination against persons infected with HIV/AIDS. The government sponsored broadcasts aimed at dissuading discrimination. However, persons infected with HIV/AIDS continued to face significant societal discrimination.

Section 7. Worker Rights

a. The Right of Association.—The constitution and law provide workers, except security forces (including firefighters and police), with the right to form and join unions, and they exercised this right in practice. Approximately 60 to 70 percent of formal sector workers were union members or supporters.

The constitution and law provide most workers with the right to strike, including government health workers, although the latter must ensure minimal services. The 2006 labor code prohibits retribution against strikers by employers. However, in December some culinary employees at the Sarakawa Hotel went on a 48-hour strike demanding year-end bonuses. The strike ended when management agreed to their demands.

There were no further developments in the case of the nine striking workers who were fired in July 2008.

b. The Right to Organize and Bargain Collectively.—The constitution and the labor code nominally provide workers the right to organize and bargain collectively; however, the government limited collective bargaining to producing a single nationwide agreement that had to be negotiated and endorsed by representatives of the government, labor unions, and employers. All formal sector employees were covered by the collective bargaining agreement that set nationwide wage standards for all formal sector workers. The government participated in this process both as a labor-management mediator and as the largest employer in the formal sector, managing numerous state-owned firms that monopolized many sectors of the formal economy. Individual groups in the formal sector could attempt to negotiate agreements more favorable to labor through sector-specific or firm-specific collective bargaining, but this option was rarely used.

The Ministry of Labor, Employment, and Social Security failed to enforce the prohibition against antiunion discrimination.

The law provides exemptions from some provisions of the labor code, notably the regulations on hiring and firing for companies in the export processing zones (EPZs). Employees of EPZ firms did not enjoy the same protection against antiunion discrimination as did other workers. Workers in the EPZs were prevented from exercising freedom of association, because unions did not have free access to EPZs or the freedom to organize workers there.

c. Prohibition of Forced or Compulsory Labor.—The labor code prohibits forced or compulsory labor, including by children; however, such practices occurred. Children sometimes were subjected to forced labor, primarily as domestic servants, porters, and roadside sellers. Women were trafficked for prostitution or forced labor as domestic servants.

d. Prohibition of Child Labor and Minimum Age for Employment.—The labor code prohibits the employment of children under the age of 15 in any enterprise, pro-

hibits children under age 18 from working at night, and requires a daily rest period of at least 12 hours for all working children. However, the government did not effectively enforce child labor laws, and child labor was a problem. Some children started work at age five and typically did not attend school for most of the school year.

Children worked in both rural and urban areas, particularly in family-based farming and small-scale trading and as domestic servants and porters. In some cases children worked in factories.

For some types of industrial and technical employment, the minimum age is 18. Inspectors from the Ministry of Labor, Employment, and Social Security enforced these age requirements, but only in the formal sector in urban areas. In both urban and rural areas, particularly in farming and small scale trading, very young children traditionally assisted in their families' work. In rural areas, parents sometimes placed young children into domestic work in other households in exchange for one-time fees as low as 12,500 to 17,500 CFA francs (\$28 to \$39).

Children were trafficked into indentured and exploitative servitude, which amounted at times to slavery.

There were credible reports that Nigerian women and children were trafficked through the country to Europe, particularly to Italy and the Netherlands, for the purpose of prostitution.

The Ministry of Social Affairs, Promotion of Women, and Protection of Children and the Elderly was responsible for enforcing the prohibition of the worst forms of child labor. In 2007 the National Assembly adopted the child code that prohibits the employment of children in the worst forms of child labor, including child trafficking, child prostitution, child pornography, and the use of children in armed conflict. Due to limited resources, the enforcement of child labor laws was weak. The ministry funded a center for abandoned children and worked with NGOs to combat child trafficking. The ministry frequently held workshops in collaboration with UNICEF, the ILO, NGOs, labor unions, and other partners to raise awareness about child labor in general and forced labor in particular.

e. Acceptable Conditions of Work.—The government sets minimum wages for different labor categories, ranging from unskilled through professional positions. There was no minimum wage for workers in the informal sector. In practice employers often paid less than the official minimum wage, mostly to unskilled workers. In August 2008, the government raised the official monthly minimum wage from 10,000 to 16,000 CFA francs (\$22 to \$35) to 28,000 CFA francs (\$62). However, the new wage did not provide a decent standard of living for a worker and family. Many workers supplemented their incomes through second jobs or subsistence farming. The Ministry of Labor, Employment, and Social Security is responsible for enforcement of the minimum wage system, especially in the private sectors, but it did not enforce the law in practice.

Working hours of all employees in any enterprise, except for the agricultural sector, normally are not to exceed 40 hours per week; at least one 24-hour rest period per week is compulsory, and workers are expected to receive 30 days of paid leave each year. Working hours for employees in the agricultural sector are not to exceed 2,400 hours per year (46 hours per week). The law requires overtime compensation, and there are restrictions on excessive overtime work; however, the Ministry of Labor, Employment, and Social Security's enforcement was weak, and employers often ignored these provisions.

A technical consulting committee in the Ministry of Labor, Employment, and Social Security sets workplace health and safety standards. It may levy penalties on employers who do not meet the standards, and employees have the right to complain to labor inspectors of unhealthy or unsafe conditions without penalty. In practice the ministry's enforcement of the various provisions of the labor code was limited. Large enterprises are obliged by law to provide medical services for their employees and usually attempted to respect occupational health and safety rules, but smaller firms often did not. Although workers have the legal right to remove themselves from unsafe conditions without fear of losing their jobs, in practice some could not do so. Labor laws also provide protection for legal foreign workers.

UGANDA

Uganda, with a population of 32 million, is a constitutional republic led by President Yoweri Museveni of the dominant National Resistance Movement (NRM) party. The 2006 presidential and parliamentary elections were marred by serious irregularities. An influx of arms continued to fuel violence in the Karamoja region, resulting in deaths and injuries. The Lord's Resistance Army (LRA), which relocated

to the Democratic Republic of the Congo (DRC) in 2005, continued to hold children forcibly abducted from Uganda. The governments of Uganda, Southern Sudan, and the DRC continued military actions against the LRA in the DRC, Southern Sudan, and the Central African Republic (CAR). While civilian authorities generally maintained effective control of the security forces, elements of the security forces occasionally acted independently of government authority.

Serious human rights problems in the country included arbitrary and politically motivated killings; vigilante killings; politically motivated abductions; mob and ethnic violence; torture and abuse of suspects and detainees; harsh prison conditions; official impunity; arbitrary and politically motivated arrest and detention; incommunicado and lengthy pretrial detention; restrictions on the right to a fair trial and on freedoms of speech, press, assembly, association, and religion; restrictions on opposition parties; electoral irregularities; official corruption; violence and discrimination against women and children, including female genital mutilation (FGM), sexual abuse of children, and the ritual killing of children; trafficking in persons; violence and discrimination against persons with disabilities and homosexuals; restrictions on labor rights; and forced labor, including child labor.

The LRA was responsible for killing, raping, and kidnapping hundreds of persons in the DRC, CAR, and Sudan.

Violent riots erupted in Kampala on September 10 and 11 after the government imposed travel restrictions on the king of the Buganda Kingdom. Security forces used tear gas and live ammunition to disperse demonstrators, resulting in 26 deaths and numerous injuries. More than 1,000 persons were detained, of whom more than 400 were in prison awaiting trial at year's end. Following the riots the government closed and suspended the licenses of four radio stations, closed a radio talk show, and suspended or dismissed journalists to control coverage of the event.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents allegedly committed politically motivated killings and were responsible for arbitrarily killing opposition members, demonstrators, detainees, and other citizens; some deaths occurred as a result of torture.

For example, on January 17, security agents in Bukedea District reportedly tortured to death David Okwi, a member of the opposition Forum for Democratic Change (FDC), for allegedly possessing a gun. On February 4, the FDC petitioned the Uganda Human Rights Commission (UHRC) to investigate Okwi's death. The UHRC was conducting an investigation into the death at year's end.

Security force use of excessive force resulted in deaths. For example, on February 22, in Kyenjojo District, police reportedly killed Mucunguzi Katongole and injured John Mande and Musa Turigye during an attempt to settle a dispute between residents and owners of a biodiesel company in Rushambya village, Mpara subcounty. A police investigation recommended murder charges against special police constable (SPC) Fred Muhangi, a charge of causing grievous harm against SPCs Silver Mpabaisi and another officer, and a charge of death by negligence against assistant police inspector Angela Moses. (SPCs are local residents appointed and employed on contract to reinforce members of the police force.) The suspects had not been arrested by year's end; a court hearing was pending.

On February 28, at Kamengo prison in Mpigi District, prison officer Paul Ekuma allegedly beat inmate Emmanuel Tindimwebwa with a metal bar. Tindimwebwa subsequently died from his injuries. On March 1, police in Mpigi arrested Ekuma, and an investigation was ongoing at year's end.

On March 6, Uganda Peoples Defense Force (UPDF) soldiers Erisma Maseruka, Wilson Tumwebaze, and Gerald Muhumuza allegedly shot and killed Joseph Denaya and Cosmas Data during an operation to arrest smugglers in Koboko District, West Nile Region. The soldiers, who were arrested, also injured David Bata. A district security intelligence bureau directed the Uganda Revenue Authority to compensate the victims' families and forwarded the case to the UPDF Fourth Division for further investigation.

On August 27, Mukono District SPCs Samuel Ejoku, Joash Hirya, Francis Okiti, James Wagyenda, and Samuel Mukwaya arrested and allegedly assaulted Ali Katende. On August 28, a court in Mukono charged Katende with interfering with police work and remanded him to prison. Katende, who then allegedly organized a mob in prison to lynch the SPCs, was found dead in his cell on August 30. Police arrested Ejoku, Hirya, and Okiti in connection with the killing; Wagyenda and Mukwaya remained at large. An investigation was ongoing at year's end.

Police use of excessive force, including live ammunition, to disperse demonstrators, resulted in deaths and injuries.

For example, on February 16, in Nakaseke District, SPC Paul Baita allegedly shot and killed William Byamugisha and Daniel Tumwine, students at Kaloke Christian High School, who were demonstrating against the quality of meals provided at the school. Four other students were injured and required medical treatment. On March 11, a court in Nakaseke charged Baita with attempted murder and remanded him to prison. Police investigations were ongoing at year's end.

On September 10 and 11, violent riots erupted in Kampala after security forces prevented the king of Buganda from travelling to Kayunga District, which is traditionally part of the Buganda Kingdom. The government claimed the travel restrictions were security measures imposed to prevent violence between Buganda and an ethnic minority that rejected the kingdom's authority. Rioters burned vehicles, blocked roads, and looted stores. Police, military, and paramilitary units used tear gas and live bullets to disperse protesters, resulting in 26 deaths and numerous injuries. Security forces arrested 1,031 persons, 965 of whom were charged with participating in an illegal assembly, rioting, destroying property, and inciting violence. Of the 965, 31 were also charged with terrorism for burning the Nateete Police Station, and 66 were released without charge. By year's end 32 persons had been convicted of rioting.

There were developments in some 2008, 2007, and 2006 security force killings.

For example, during the year the state attorney exonerated and released SPC Simon Kirabira, arrested for the January 2008 killing of Jovina Busulwa and Patrick Maale Sentumbwe. SPC Peter Serukwaya, also charged in the killings, remained a fugitive at year's end. Eyewitnesses stated that Busulwa and Sentumbwe were killed when the SPCs shot indiscriminately into a suspect's home.

On September 17, the High Court in Arua District sentenced police constable Rashide Nyakuni to 10 years' imprisonment for the December 2008 killing of Stephen Enzabugo. The court acquitted and released police commander Michael Benedict Ojingo, also charged in the case.

On March 16, a court in Arua District sentenced SPC Yasin Alayi to three years' imprisonment for manslaughter in the 2007 killing of Gerald Uroma.

On May 1, the Lira District High Court sentenced to death former Amuka militia members Alfred Odema and Simon Ojoga for the 2006 killings of 10 persons in the Ogwete camp for internally displaced persons (IDPs).

There were no developments in the following 2007 cases involving security force killings: the trial of Peter Ahimbisibwe, who was charged with the April killing of presidential office official Nelson Ssendegeya; the May death of Faizal Kirunda from injuries inflicted by authorities at the Malukhu Prison in eastern Uganda; the October killing of suspect Ronald Bukyayanga by three Nabbingo SPCs; the October killing of Rogers Mugenyi by a Kampala traffic police officer; and the October rape and killing of a woman by UPDF soldier Ochen Obonyo.

Members of Local Defense Units (LDUs), informal groups of local citizens who volunteered to provide security, were responsible for killings during the year. For example, on January 17, in Kabarole District, LDU member Moses Kabagambe allegedly killed civilian Lauren Arinaitwe during a night patrol in Rwimi subcounty. Police, who claimed that Arinaitwe was shot while resisting arrest, arrested Kabagambe and remanded him to prison. The trial was ongoing at year's end.

During the year LDU members were punished for 2008 killings. For example, on January 22, the court martial sitting in Kitgum District sentenced LDU member Kenneth Albino to death by hanging for the July 2008 killing of civilians David Olah, Ismail Okello, and Obina Torit. The killing occurred in a nightclub following a quarrel over a woman in Omiya-Nyima IDP camp.

Murusi Katusabe, an LDU member arrested for the April 2007 killing of two civilians, remained at large.

On June 24, the Kampala High Court sentenced LDU member Ramadhan Magara to 14 years' imprisonment for manslaughter for the 2006 killing of two supporters of opposition leader Kizza Besigye in Kampala. However, on September 3, the court rescinded the sentence and dismissed the case for lack of evidence. There were no developments in the civil suit filed by FDC supporter Haruna Byamukama, who was injured during the 2006 incident.

Ritual killings of children resulted in deaths and injuries (see section 6).

Mob attacks against criminal suspects resulted in deaths. Witnesses rarely cooperated with police, making investigation of such incidents difficult.

For example, on March 22, a mob in Jinja District killed and later burned two suspected thieves in the village of Kangulumira.

On March 23, a mob in Rukungiri District beat to death John Manziyabo and his son, Polly Mukamata, for killing Julius Twijukye in a suspected ritual sacrifice.

Tensions between landlords and tenants resulted in mob violence. For example, on August 16, in Kayunga District, a mob beat to death and then burned Sam Kubo after he tried to sell his land despite protests from tenants. Police in Kayunga arrested 11 persons for suspected involvement in the incident. An investigation was ongoing at year's end.

During the year authorities released Musa Mungomaon, arrested for involvement in the October 2008 burning of four suspected thieves. Mungomaon reportedly denied involvement and identified other suspects, who were reportedly on the run at year's end.

There were no developments in other 2008 or 2007 cases of mob violence. In the Karamoja Region, there were fewer interclan cattle raids between Karamojong tribes than in previous years; however, violence in the region continued. According to the UPDF and media reports, 52 civilians and 10 UPDF soldiers died during the year due to cattle raids, the UPDF's response to those raids, and the government's disarmament campaign. The UN Office for the Coordination of Humanitarian Affairs (OCHA) reported fewer incursions of illegally armed Karamojong into neighboring districts, a reduction OCHA attributed to increased police presence and the government's disarmament program.

There were no reports of LRA attacks within the country during the year; however, the LRA killed numerous persons in the DRC, CAR, and Sudan. OCHA reported that between June and July, for example, the LRA killed 105, abducted 352, and displaced approximately 12,500 civilians in the DRC.

b. Disappearance.—Politically motivated abductions occurred.

For example, on August 17, members of the opposition FDC Youth League told police that FDC member Ismail Wagaba was abducted on his way to attend a press conference at the FDC's headquarters in Kampala. Wagaba's whereabouts remained unknown until he reappeared in December. FDC officials reported that they still did not know the whereabouts of FDC party member Robert Mugenyi, who disappeared in 2006. Human rights groups held the government responsible for the disappearances.

In its April 8 "Open Secret" report, Human Rights Watch (HRW) noted that at least six individuals believed to have been detained in mid-2008 were last seen in Kololo detention facility and have not been seen since (see section 1.d.).

An investigation into the disappearance and presumed death of Lutaya Saidi, a street vendor allegedly arrested by the Joint Anti-terrorism Task Force (JATT) in 2007, was ongoing.

There were no reports of LRA abductions in northern Uganda during the year; however, an estimated 5,000 of the 40,000 children and young adults abducted by the LRA in previous years remained unaccounted for, according to the international nongovernmental organization (NGO) Save the Children. The LRA continued to abduct children and adults in the DRC, CAR, and Sudan.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution and law prohibit such practices; however, there were credible reports that security forces tortured and beat suspects, some of whom died as a result (see section 1.a.). Torture generally occurred in unregistered detention facilities and was intended to force confessions. From January to June, the African Center for Treatment and Rehabilitation of Torture Victims registered 116 allegations of torture against the police, 38 against the UPDF, three against the Chieftaincy of Military Intelligence (CMI), and 11 against the Violent Crime Crack Unit or Rapid Response Unit (RRU).

In its 2008 annual report, the UHRC reported registering 1,060 human rights complaints against 873 individuals, including 237 UPDF members, 148 police officers, and 300 private citizens. Of the 1,060 complaints, 30 percent involved allegations of torture or cruel, inhuman, or degrading treatment and punishment.

There were numerous reports of torture and abuse in the unregistered detention facilities operated by the JATT and CMI. In its April 8 report, HRW noted that detainees held in JATT headquarters in Kololo and at CMI headquarters in Kitante described being "hit repeatedly with the butt of a gun, slapped in the head and ears, or beaten with fists, whips, canes, chairs, and shoes." JATT and CMI personnel "put detainees into painful stress positions and forced red chili pepper into eyes, nose, and ears," causing excruciating pain. Some detainees described being shocked with electricity, and many reported seeing detainees struggling to walk or having to be carried by fellow detainees to vehicles. One detainee lost his leg due to infection in a wound caused by a severe beating.

The UHRC, the Foundation for Human Rights Initiative (FHRI), and other human rights organizations reported incidents of torture by security forces, includ-

ing caning, severe beating, stabbing, kicking, tying of limbs in contorted positions, forced marching, and rape.

Torture victims included political activists and detainees. For example, Francis Atugonza, the mayor of Hoima and the FDC's trade and industry secretary, filed charges during the year against the CMI for alleged illegal detention and torture in a CMI "safe house" after he was arrested in April. Presiding high court justice Yorokamu Bamwine barred the public from court proceedings, which were ongoing at year's end. Atogunza was arrested again in December, held for two weeks on charges of abuse of office, and released; the second case against Atogunza was also pending at year's end.

During the September 10-12 riots in Kampala, security forces beat suspects, including women, and went door to door in some neighborhoods, pulling residents out of their homes to be beaten and arrested, according to HRW (see sections 1.a. and 1.d.). The UHRC received complaints from individuals who sustained injuries during the riots. For example, a petition filed by Ssemukala Ismail alleged that security force members shot him while he was closing his shop in Nateete, impairing his left arm. Investigations into the incident were ongoing.

Police use of excessive force during arrests, evictions, and land disputes resulted in injuries.

For example, in March UPDF Major Otim Demoi Latek allegedly tied up and seriously beat residents David Obonyo and Walter Okeny over a land dispute in Gulu town. The army confirmed the incident and stated that an investigation was ongoing.

On July 11, Soroti District SPCs James Anyou and Olupot Kokas allegedly shot and injured Jonathan Okello, a resident of Kadungulu village, during a night patrol. Police arrested the SPCs the following day, and an investigation was pending at year's end.

On July 20, Nateete corporal Swaleh Swaib and SPC Henry Mukasa allegedly injured four persons during a forceful land eviction of tenants from Busega, a Kampala suburb. Swaib and Mukasa were arrested the same day, and an investigation was ongoing at year's end. On July 31, a court in Kampala charged Swaib and Mukasa with neglect of duty and released them on bail. Hearing of the case was pending at year's end.

Police use of excessive force to disperse opposition politicians, religious members, and demonstrators resulted in deaths and injuries (see sections 1.a. and 2.b.).

There were no developments in the October 2008 shooting in Muzulu village, Namutamba District, by SPC Eric Kiirya of Masaba Bakari for defying traffic police directives to stop.

In its April report, HRW documented the 2007 death by torture in JATT custody of Yasin Tayebwa and Abdu Semugenyi.

On May 20, the UHRC reported to parliament that the government owed torture and illegal detention victims two billion shillings (\$1,030,000) from previous years. The UHRC did not hold any tribunals during the first half of the year because the president did not appoint a new chair or members until May. Tribunal hearings began in August.

Mobs attacked persons suspected of stealing, ritual sacrifice, witchcraft, and other crimes, resulting in deaths and injuries. Motivated in part by lack of confidence in law enforcement and the judicial system, mobs beat, lynched, burned, and otherwise mistreated their victims (see section 1.a.).

Prison and Detention Center Conditions.—Prison conditions remained harsh and frequently life threatening. In addition there were reports that security forces and guards tortured inmates, particularly in military facilities and unregistered detention facilities. Abusive forced labor in prisons countrywide remained a problem.

Prison conditions came closest to meeting international standards in Kampala, where medical care, running water, and sanitation were provided; however, these prisons also were among the most overcrowded. Serious problems in prisons outside of Kampala included long remand periods, overcrowding, inadequate staff, and lack of food, water, medical care, and bedding. The FHRI reported a slight improvement in nutritional provision in prisons in Kampala, Jinja, Bukedea, and Kamuli.

There were 30,957 prisoners in the prison system in mid-December, approximately three times the capacity. Severe overcrowding was also a problem at juvenile detention facilities and in female wings of prisons. The Kampala remand home, designed for 45 persons, held 122 children. The reception center, designed for 30 prisoners, held 85 juveniles.

Information was unavailable on conditions in unregistered facilities, which the government denied existed.

Torture, overcrowding, malnutrition, poor sanitation, disease, overwork, and lack of medical care resulted in 141 prisoner deaths nationwide, according to the Prisons Service.

During the year prison authorities confirmed that the June 2008 deaths of prisoners Geoffrey Akandwanaho, Fred Mugisha, and Ephraim Nankunda resulted from strangulation by fellow inmates in Kiruhura prison; the three inmates suspected of involvement in the strangulation were transferred to Mbarara main prison on murder charges pending court hearings. The initial 2008 Prison Services investigation had cited suffocation from severe overcrowding as the cause of death.

There were no developments in the case of Isaac Apungia, an inmate at Amuria Prison, who collapsed and died in April 2008 after he was subjected to harsh conditions on a prison farm.

Female prisoners in central prisons were held in separate facilities; however, services and facilities for female prisoners in local prisons, including separate cells, were lacking in some parts of the country. The Prisons Service had no budget for pregnant women or mothers with infants, although the number of infants in women's prisons continued to increase during the year, according to the FHRI. Due to lack of space in juvenile facilities, minors were held in prisons with adults. Pretrial detainees in Kampala prisons were separated from convicted prisoners, but pretrial detainees and convicted prisoners in the rest of the country were sometimes held together.

During the year the government permitted access to prisons by the International Committee of the Red Cross (ICRC), foreign diplomats, and local NGOs, principally the FHRI and the Uganda Prisoners' Aid Foundation. However, authorities required advance notification of intended visits. Authorities told human rights organizations seeking access to unregistered facilities that the government did not maintain safe houses or unregistered detention sites. d. Arbitrary Arrest or Detention

The constitution and law prohibit such practices; however, members of the security forces arrested and detained citizens arbitrarily during the year.

Role of the Police and Security Apparatus.—The Uganda Police Force (UPF), under the Ministry of Internal Affairs, has primary responsibility for law enforcement. The UPDF is the key armed force charged with external security but had partial responsibility for maintaining order in the north, where it was deployed to protect civilian IDPs from rebel attacks and to prevent violence resulting from interclan cattle raids in the Karamoja Region. The Internal Security Organization (ISO) and External Security Organization (ESO), key security agencies and intelligence-gathering entities under the direct control of the president and the minister of security, occasionally detained civilians. The CMI is legally under UPDF authority, although it often acted as a semiautonomous unit by detaining civilians suspected of rebel and terrorist activity, as did the ISO and ESO. The Joint Anti-terrorism Taskforce (JATT), a paramilitary group under the CMI, has no codified mandate but illegally detained numerous civilians suspected of rebel and terrorist activity. The JATT is a joint command whose members are drawn from the UPDF, police, ISO, and ESO. LDUs reinforced government efforts to protect civilians and sometimes participated in offensive military operations and carried out police functions.

The UPF continued to be constrained by limited resources, including low pay and lack of vehicles, equipment, and training. Corruption and impunity were problems. By year's end, 24 police officers had been charged with corruption, although none had been discharged or dismissed for accepting bribes. The UPF Human Rights Desk investigated complaints of police abuses, including mismanagement of case papers, torture and harassment, unlawful arrest and detention, abuse of office, irregular or discreditable conduct, and corrupt practices. The UPF reported receiving 5,000 allegations of human rights violations and unprofessional conduct from January 2008 to September 2009 and stated it took action in response to 3,000 of these cases.

The UPDF continued efforts to transfer responsibility for law enforcement in the north and in the Karamoja region to the UPF. During the year the UPF deployed an estimated 30 new SPCs at each subcounty headquarters and 12 SPCs per division in municipalities. Many of the new SPCs were former members of LDUs, the overall membership of which continued to decrease. Of the 6,700 police officers in the north, 4,500 were SPCs, who received less training than police officers and were employed on contract.

In conjunction with the UHRC and international organizations such as the ICRC and the UN Office of the High Commissioner for Human Rights, the UPDF and police continued to train officers on internationally recognized human rights standards. During the year 289 police officers attended human rights and constitutional workshops. The police, UPDF, and Prisons Service also used human rights manuals in their training programs.

Arrest Procedures and Treatment While in Detention.—The law requires that judges or prosecutors issue search warrants before arrests are made; however, in practice, suspects often were taken into custody without warrants. The law requires suspects to be charged within 48 hours of arrest, but suspects frequently were held longer. Suspects arrested under the Antiterrorism Law must be brought to trial or released on bail within 120 days (360 days for a capital offense); however, if the case is presented to the court before the expiration of this period, there is no limit on pretrial detention. Detainees must be informed immediately of the reasons for their detention, although authorities did not always do so. The law provides for bail at the discretion of the judge, and bail was generally granted with stringent conditions. Detainees are required by law to have access to a lawyer; however, many went without legal representation. Indigent defendants accused of capital offenses are provided attorneys at state expense.

The law provides for family visitation, but incommunicado detention remained a problem during the year. According to the FHRI, during the year the CMI held four civilians incommunicado and JATT, one. None of the detainees had been released by year's end. There were also credible reports of police moving recently arrested prisoners from one detention facility to another to confuse family members attempting to ascertain their whereabouts. In its April 8 report, HRW noted that "JATT personnel frequently blindfolded, handcuffed, and sometimes beat suspects being taken to the Kololo detention facility. Detainees had no access to lawyers or family members and only learned of their whereabouts from other detainees or by spotting Kampala landmarks visible from the Kololo facility."

Mass arrests during police sweeps for criminals remained a problem, as did arrests based on sedition, treason, incitement of violence, and terrorism charges. Persons suspected of sedition, treason, incitement of violence, or terrorism were subjected to numerous abuses, such as detention without charge, detention in unregistered and unofficial locations, and mistreatment, including torture. The Prisons Service held 29 pretrial treason suspects during the year.

The UHRC received 149 complaints during the year from persons who claimed they were arbitrarily arrested. The government paid compensation to some victims of arbitrary arrest during the year, but government compensation was often slow in coming. There were no developments in the April 2008 petition filed by former UHRC chairperson Margret Sekaggya to establish a national fund to pay victims. Past compensation payments have been made from general government funds administered by the Ministry of Justice and Constitutional Affairs.

Human rights groups expressed concerns about the treatment of individuals arrested by the UPDF in Karamoja in conjunction with the UPDF's response to cattle raids and the government's disarmament campaign (see section 1.a.).

Human rights groups reported that the government detained civilians in military facilities and unregistered detention facilities known as safe houses, where they often were held incommunicado. The government denied it maintained such facilities.

In October the inspector general of police reshuffled senior leadership of the police RRU following allegations that its members illegally detained the wife of a government employee at an unknown location for more than a week and threatened her with torture. The RRU's director, Commandant Emmanuel Muhairwe, and two deputies, Peter Kakonge and Emmanuel Bwembale, were placed on extended study leave.

In its April 8 report, HRW documented 106 cases of illegal detention by JATT, ranging from one week to more than a year. Many of the detentions, which occurred in 2007 and 2008, were made in the months leading up to the country's hosting of the 2007 Commonwealth Heads of Government meeting. In more than 25 instances, detainees were tortured or subjected to mistreatment (see section 1.a.). According to court records and interviews by HRW, the majority of detainees were never charged with any criminal offense.

Six of the 106 detainees were held for more than a year without charge; the CMI confirmed that the suspects were in detention. On July 27, the High Court ordered the UPDF to produce in court five of the detainees—Muhammad Adam Sekulima, Fatima Nantongo, Ismail Kambale, Abdulrahman Kijambu, and Abdul Hamid Lugemwa—all of whom were accused of belonging to the ADF rebel group. The UPDF ignored the High Court's ruling and instead dropped the five detainees at the Uganda Amnesty Commission to apply for amnesty. On July 31, the commission granted the five suspects amnesty. According to the CMI, on February 28, authorities arrested the sixth suspect, Hamuza Mwebwe, for alleged involvement in a killing; he had been released in November 2008 for lack of evidence.

On June 15, the High Court ordered the UPDF to produce Patrick Otim, a reporter for Mega FM radio station in Gulu, after receiving a complaint from civil soci-

ety organizations that he was being held incommunicado by the UPDF. Between September 2008 and May 2009, authorities arrested Otim and 13 other suspects—Alfred Layang Okot, former Gulu municipal council speaker; former LRA rebels Emmy Oryem and Philip Onokono Okello; and private citizens Francis Akena, Patrick Lumumba Komakech, Patrick Kidega, Jimmy Ochieng, Patrick Okello, John Otim, Alfred Olanya Lububoe, Meya Deovilente, Michael Obol, and Patrick Komakech—for allegedly forming a rebel group entitled the Uganda Patriotic Front and plotting to overthrow the government. On June 16, Otim and several others were charged with treason and remanded to prison. On December 18, a court in Kampala committed the 14 suspects for trial in the High Court.

Some of the 106 persons illegally detained by JATT in 2007 and 2008 reported to HRW that they had been physically coerced by JATT agents to apply for amnesty. Others said that long-term incommunicado detention and a lack of legal assistance compelled them to seek amnesty despite their insistence that they had no involvement in any rebel activity. Detainees who sought amnesty were stigmatized as rebels or terrorists, feared complaining of mistreatment by JATT, and could be targeted in the future.

Police arbitrarily arrested hundreds of demonstrators, particularly during the September 10-12 riots in Kampala (see section 1.a.)

Case backlogs in the judicial system contributed to pretrial detentions of between two and three years but sometimes as long as seven years. The Prisons Service reported that more than half of its approximately 30,000 inmates were pretrial detainees. The UHRC heard several cases brought by prisoners challenging the length of their detention.

Amnesty.—The government has offered a blanket amnesty since 2000 to former combatants for treason charges to encourage defection from the LRA and other rebel groups. Almost 23,500 individuals have benefited from the law, more than half of whom were former LRA combatants.

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary, and the government generally respected this provision in practice; however, the president has extensive legal powers of judicial appointment. The president appoints Supreme Court, High Court, and Court of Appeal judges with the approval of parliament. The president also nominates, for the approval of parliament, members of the Judicial Service Commission, who make recommendations on appointments to the judiciary. The judiciary ruled against the government on several high profile cases during the year. Lower courts remained understaffed, weak, and inefficient. Judicial corruption was a problem (see section 4).

The highest court is the Supreme Court, followed by the Court of Appeal (which also functions as the Constitutional Court), the High Court, magistrates' courts, local council (LC) subcounty courts, parish courts, and village courts. The LC courts have the authority to settle civil disputes, including land ownership and debt cases, and criminal cases involving children. These courts, often the only ones available to villagers, reportedly exceeded their authority by hearing criminal cases of adults. Decisions made by LC courts can be appealed to magistrates' courts, but there often were no records at the village level, and some defendants were not aware of their right to appeal.

The military court system often did not assure the right to a fair trial. Although the accused has the right to legal counsel, some military defense attorneys were untrained. The law establishes a court martial appeals process; however, sentences, including the death penalty, can only be appealed to the senior UPDF leadership. Under circumstances deemed exigent, a field court martial can be convened at the scene of a crime. The law does not permit appeal of a conviction under a field court martial. The military general court martial can try civilians charged with crimes listed under the UPDF Act.

Trial Procedures.—An inadequate system of judicial administration and a lack of resources resulted in a serious backlog of cases and limited the right to a fair trial. All nonmilitary trials are public, but juries are not used. Defendants have the right to be present and to consult with an attorney in a timely manner, but cases may proceed without defendants in civil cases. The law requires that the government provide an attorney for indigent defendants accused of capital offenses, but there were rarely funds to retain adequate counsel. By law defendants may confront or question witnesses against them and present witnesses and evidence on their behalf, but this right was not respected in practice. In March 2008 the Constitutional Court ruled that suspected criminals have a right to obtain documentary evidence the state intends to use against them before the start of their trial. The ruling struck down the practice of "trial by ambush." However, the ruling stated that the

right of disclosure is not absolute in highly sensitive cases. There is a presumption of innocence, and defendants have the right of appeal.

In August the Ministry of Justice and Constitutional Affairs reported that more than 76 percent of the cases filed in various courts across the country had not been disposed of due to staffing problems. The statement noted such staffing shortages impaired the dispensation of justice to most citizens.

Political Prisoners and Detainees.—There were reports of political prisoners and detainees during the year, but reliable statistics were unavailable.

Charges of treason against FDC opposition leader Kizza Besigye and nine other FDC members remained pending in the High Court due to the FDC members' petition to the Constitutional Court regarding the constitutionality of facing concurrent military court martial and civilian charges. On September 1, the Constitutional Court rejected the High Court's procedural objection to the petition, paving the way for a complete Constitutional Court hearing, which had not occurred by year's end.

Bright Gabula Africa, whose death sentence for treason was upheld by the Supreme Court in 1995, remained imprisoned pending the outcome of his appeal to the Presidential Advisory Committee on the Prerogative of Mercy, a largely autonomous constitutional body.

Civil Judicial Procedures and Remedies.—There is an independent and impartial judiciary in civil matters. In the case of a human rights violation, there is access to the UHRC, which has the powers of a court under the constitution. These powers include the authority to order the release of detainees, payment of compensation to victims, and other legal remedies. There were problems enforcing domestic court orders.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and law prohibit such actions, and the government generally respected these prohibitions. Police did not always obtain search warrants, as required by law, to enter private homes and offices.

The Antiterrorism Act authorizes certain law enforcement officials to intercept communications to detect and prevent terrorist activities. The government continued to monitor telephone conversations.

The government allegedly increased efforts to require students and government officials to attend NRM political education and military science courses known as "chaka mchaka." The government claimed the courses were not compulsory; however, human rights activists reported that civil servants and students were pressured to attend. There were reports that graduates seeking government employment were also required to submit a certificate of attending the political education training in order to be considered for work.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution and law provide for freedom of speech and of the press; however, the government at times restricted these rights. The law criminalizes offenses by the media, and the police Media Crimes Unit closely monitored all radio, television, and print media. Numerous journalists were charged with sedition; however, the government could not prosecute such cases until the Constitutional Court ruled on a 2005 petition, submitted by the Independent editor Andrew Mwenda, challenging the constitutionality of the sedition law. The government at times harassed and intimidated journalists, who continued to practice self-censorship.

Government officials detained and interrogated political leaders who made public statements critical of the government and used libel laws and cited national security as grounds to impede freedom of speech (see section 3). The President's Office reportedly monitored political talk show debates closely, and the government occasionally attempted to block participation of opposition members on radio talk shows.

On September 12, police in Kampala arrested parliamentarian and opposition Democratic Party (DP) member Issa Kikungwe for allegedly inciting violence during the September riots in Kampala; Kikungwe had delivered a speech on development at a youth church event. On September 13, police released Kikungwe on bond. An investigation was ongoing at year's end.

On December 10, police charged DP publicity secretary Betty Namboozee with sedition, alleging that Namboozee made statements with the intent to generate hatred, contempt, and dissatisfaction with President Museveni and his government during an August 19 appearance on CBS radio's Kiriza Oba Gaana (Accept or Deny It) program. Namboozee denied the charges and was released on bail, pending a hearing scheduled for January 2010.

On December 28, police in Kampala interrogated Hussein Kyanjo, a parliamentarian and member of the opposition Justice Forum party, for inciting violence dur-

ing a December 17 Buganda Kingdom conference; Kyanjo had presented a paper warning that Buganda would resort to violence if the government failed to respect democracy and rule of law. Kyanjo was released on bail, and an investigation was ongoing at year's end.

There were many privately owned publications and broadcast stations, and the independent media were generally active and expressed a wide variety of views, although they faced obstacles. Media laws require that journalists be licensed and possess a university degree in journalism or the equivalent. The law also grants the Media Council the power to suspend newspapers. The Daily Monitor, the Independent Magazine, and the Weekly Observer continued to publish articles critical of the government despite pending sedition cases against members of their staff. The government owned several daily and weekly newspapers.

The government assaulted journalists during the year. For example, on July 2, the police RRU allegedly assaulted journalists Tony Kizito of the Red Pepper and Katende Malibu of Wavah Broadcasting Station (WBS) TV for taking pictures of a cyclist who was being tortured in front of RRU headquarters in Kireka, a suburb of Kampala. There were no reports of developments in the incident at year's end.

The government also arrested and harassed journalists, some of whom were charged with sedition and forced to turn over their passports.

On January 2, the police Criminal Investigation Department (CID) arrested and interrogated the Daily Monitor newspaper's managing editor Dan Kalinaki and senior reporters Grace Matsiko and Angelo Izama following a December 28 Monitor article titled "Reclusive Kony: UPDF's Tactics under Spotlight," which authorities charged was prejudicial to national security. Kalinaki was released without charge after nine hours. Matsiko and Izama were released on police bond, and on January 29, police withdrew both the bond and charges against them.

On August 12, police in Kampala briefly detained without charge Daily Monitor photo journalist Stephen Otago, who allegedly took a photograph of Faith Mwendha, former inspector general of government (IGG), without her permission. Police confiscated Otago's camera.

On August 18, Kampala police arrested and interrogated Daily Monitor newspaper editors Daniel Kalinaki and Henry Ochieng for allegedly publishing an altered version of a letter from President Museveni to a cabinet minister. The letter, which the Monitor published on August 2, included a controversial proposal to prevent members of a specific ethnic group from running for elective office in some areas of western Uganda. Kalinaki and Ochieng, who were charged with forgery and authorizing a false document, were released on police bond; the case was pending at year's end.

On August 27, police arrested and interrogated the Independent Magazine managing director Andrew Mwenda, senior editor Charles Bichachi, and assistant news editor Joseph Were for publishing a cartoon depicting President Museveni reviewing a checklist for rigging the 2011 presidential election. On September 23, the three journalists were charged with sedition and released on bail. On October 15, the court suspended the case against Mwenda, Bichachi, and Were pending resolution by the Constitutional Court of Mwenda's 2005 petition against the country's sedition law.

On December 21, police arrested Angelo Izama, a senior reporter with the Daily Monitor, for allegedly defaming President Museveni in the December 20 article "Fears of war as polls draw close." Izama was released from police custody after five hours of questioning. The case was pending at year's end. Four radio stations were closed or suspended during the year, and radio journalists were assaulted, arrested, dismissed, suspended, and threatened, particularly in response to their coverage of the September 10-12 riots in Kampala. The government also restricted independent television and radio stations that hosted opposition political candidates critical of the government. The government continued to ban new radio stations in Kampala, reportedly because of limited available frequencies; however, the ban was widely disregarded without penalty.

On May 27, police in Arua arrested journalist Victor Gadribo and UPC members Caleb Kamure, Jeffer Alekua, and Fagil Lemeriga for defaming the president while appearing May 23 on a weekly political talk show hosted by Arua One FM Radio in West Nile; the suspects had questioned the nationality of President Museveni.

On September 10, the Uganda Broadcasting Council (UBC) closed and suspended the licenses of four radio stations in Kampala: Radio Sapientia, Ssuubi FM, two frequencies owned by the Buganda Kingdom Central Broadcasting Services, and Akaboozi Ku Bbiri-Radio Two.

On September 11, unidentified assailants accosted Radio One journalist Robert Kalundi Sserumaga outside WBS studios where he had just recorded the Kibaazo on Friday program. They forced him into an unmarked vehicle, beat him, and jail

him in a safe house with 20 other inmates. On September 12, Sserumaga was delivered to an official police station, where he was arrested. On September 15, authorities charged Sserumaga with six counts of sedition and subsequently forced him to surrender his passports before being released on bail; a hearing of the case was ongoing at year's end. After his release, the UBC suspended Sserumaga from hosting and moderating radio talk shows. On December 4, Sserumaga and Radio Sapientia's Geoffrey Ssebagala petitioned the High Court to dismiss their suspensions as unlawful. Hearing of the petition was pending at year's end.

On September 12, the UBC shut down one talk show on Radio Simba and the WBS television program, Kibaazo on Friday, for allegedly inciting violence and demeaning the president. Talk show host Peter Kibaazo was suspended for three months. On December 8, the UBC allowed Kibaazo to resume another suspended WBS television talk show, *Issues at Hand*. Authorities also suspended or dismissed other journalists in connection with the riots, including Uganda Broadcasting Corporation TV manager Mark Walungama, who aired footage of the riots and police response; Siasa Ssenkubuge of Radio Simba; Charles Odongotho of Vision Voice; and Radio Sapientia journalists Matovu Laoyisius, Irene Kiseka, and Ben Mutebei Ameyengo. In October Ssenkubuge was reinstated to Radio Simba. The government allowed Radio Sapientia to reopen on September 15 with strict instructions to not broadcast political programs.

Local government officials restricted press freedom during the year. For example, in July the district council in Bugiri District, eastern Uganda, blocked journalists from attending council sessions following the publication of stories exposing government corruption. In September Mbale Deputy Resident District Commissioner Henry Nalyanya banned all radio talk shows, except health programs, in his district.

There were developments in several 2008 cases of press freedom. In March WBS journalists Francis Tumwekwazize and Timothy Sibasi, who alleged that police harassed and assaulted them in August 2008, petitioned the High Court for compensation; police accused the journalists of negative reporting about police. The September 2008 petition filed by the journalists with the UHRC remained pending.

On June 4, the Constitutional Court directed the Nakawa chief magistrate to continue with criminal proceedings against former Daily Monitor editors Joachim Buwembo, Bernard Tabaire, Emmanuel Gyezaho, and Robert Mukasa, who in January 2008 were charged with sedition for articles alleging that former IGG Faith Mwendha had filed bogus salary claims. At year's end hearing of the petition was pending, and the suspects were free on bail.

On September 23, a court in Kabarole acquitted Life Radio station presenters Steven Rwagwere, William Gonza, Gerald Kankya, Joram Bintamanya, and Prosper Busingye for lack of evidence; the radio journalists were charged in January 2008 with inciting violence and defamation. In October the journalists filed a petition to sue government for unlawful arrest. Hearing of the petition was pending at year's end.

There were no developments in the April 2008 sedition case against the Independent Magazine editor Mwenda, contributing editor Charles Bichachi, and reporter John Njoroge, who published an article alleging UPDF atrocities in 2003, including first-person accounts of torture in government safe houses.

Internet Freedom.—Individuals and groups could generally engage in the peaceful expression of views via the Internet, including by e-mail; however, at times the government restricted access. The 2006 ban on access to radiokatwe.com, an antigovernment gossip Web site, remained in place. Access to the Internet continued to increase during the year, although due to lack of infrastructure, only approximately 7.8 percent of the population used the Internet at least monthly.

Academic Freedom and Cultural Events.—There were no government restrictions on academic freedom; however, research clearance was required in certain academic areas, such as history and political science, and was difficult to obtain.

Unlike in the previous year, the Media Council did not block the screening of films for perceived promotion of homosexuality.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The law restricts freedom of assembly, and security forces used excessive force, including live ammunition, to disperse demonstrators during the year. Police permits are required for all public meetings, demonstrations, and processions. In May 2008 the Constitutional Court nullified section 32(2) of the Police Act, thus eliminating the requirement to obtain the written permission of the inspector general of police before holding an assembly of 25 or more persons. However, the Ministry of Justice and Constitutional Affairs appealed the court's decision, which in effect stayed any action on the court's ruling. By year's end no decision on the appeal had been made,

and police and local government authorities used the Police Act to disrupt opposition party activities (see section 3).

For example, on August 23, police in Mubende blocked a rally by the Uganda Federal Alliance, a civil society organization led by FDC Member of Parliament (MP) Betty Kamyu. On September 2, police in Kampala blocked a procession planned by FDC youth following the release on bail of their national youth leader, Abedi Nasser Obote. On December 1, police disrupted a procession of DP supporters in Entebbe. On December 6, police in Hoima blocked FDC president Kizza Besigye from holding a rally.

The use of excessive force to disperse demonstrators resulted in numerous deaths and injuries, particularly during the September 10-12 riots (see section 1.a.).

On July 26, in Luwero District, security forces shot and injured Bugema Adventist Secondary School students Wilber Kwamboko Omara and Miriam Adyelo, who were participating in a student demonstration against poor food and corporal punishment. The same day police arrested security force members involved in the shooting, including police commander Eddie Kulany, community liaison officer Ibrahim Odroa, CID chief Sulieman Kibuye, and SPCs Robert Oguti and Alex Ojambo. An investigation was ongoing at year's end.

In February the parliamentary Select Committee completed an investigation into the alleged 2008 police beatings of parliamentarians during illegal political rallies. However, the committee had not released the investigation report by year's end.

Opposition DP members Domic Matovu Savio, Emmanuel Mugandusi, Samuel Mulindwa, Margret Wazemba, and Ben Kiwanuka, charged in 2008 with rioting, assault, and carrying arms during an illegal rally at their party headquarters, remained on police bond at year's end.

During the year police dismissed the August 2008 case against 25 Mandela Secondary School students, charged with staging an unlawful demonstration and engaging in malicious damage to property. The dismissal followed an agreement by parents of the students to compensate the school for the damaged property.

Police suspended the investigation into use of excessive force during the February 2008 Kisekka market riot due to lack of evidence. Police were unable to provide an update on the number of rioters who remained in prison by year's end.

There were no developments in the June 2008 assault and arrest of MP Nabilah Sempala for allegedly holding an illegal rally in Kampala. The parliamentary Committee on Defense and Internal Affairs was investigating Sempala's case at year's end.

On August 12, 22 activists were charged with participating in a 2007 demonstration which resulted in one death. Among those charged were MPs Hussein Kyanjo, Elias Lukwago, and Beatrice Atim Anywar; DP youth wing vice president Fred Mukasa; and Issa Ssekito, chairman of the Kampala Traders Association. The cases were pending at year's end.

Freedom of Association.—The constitution provides for freedom of association, and the government generally respected these rights.

In April civil society organizations petitioned the Constitutional Court to challenge the 2006 NGO Registration Act, which requires most NGOs, including religious organizations, to renew their registration permits annually. The government established a committee to review the act in January 2008, when enforcement of the law was temporarily suspended. No action had been taken on the petition or by the committee by year's end. c. Freedom of Religion

The constitution and law provide for freedom of religion, and the government generally respected this right in practice with some restrictions. The law requires religious groups and foreign missionaries to register with the government under the same law as NGOs, and failure to register is a criminal offense; however, enforcement was temporarily suspended (see section 2.b.). There were some reports of violence by the government or its agents against religious groups, leaders, or individual members, and there were reports that the government restricted worship by certain religious groups.

For example, on July 20, the RRU allegedly attacked and tortured several worshippers at Christ Sanctuary International Church. Police arrested police deputy assistant inspector William Kanzira and officers John Bosco Odole, Jim Okello, Salidat Nakate, and Deo Abaine. On August 13, a court in Kampala charged the suspects with causing grievous harm and threatening violence. The accused were released on bail, and the case was pending at year's end.

On August 12, police in Tororo arrested Gospel Church members Stephen Otabong, Joseph Othieno, Dismas Ofambo, John Etonet, Richard Oketcho, David Ejakait, and John Obella following complaints from residents about the group, which prohibits its members from enrolling in public schools or seeking medical care at clinics and hospitals. The case hearing was pending at year's end.

During the year police dismissed for lack of evidence the April 2008 arrest case of 11 members of the Nyangakaibo cult, who were charged with holding an illegal assembly.

Local officials imposed minor restrictions that indirectly impeded the activities of some religious groups. Groups considered cults experienced extra scrutiny and restrictions.

Societal Abuses and Discrimination.—There were no reports of societal abuses or discrimination based on religious belief or practice, and prominent social leaders took positive steps to promote religious freedom.

Police reported that several 2008 cases were dismissed for lack of evidence, including the January arrests of Mbarara House of Grace pastors Patrick Mucunguzi, Michael Katongole, and Joshua Keinarugaba for allegedly extorting money from sick members of the church's congregation and of pastor Mike Ocaka for allegedly stealing an estimated 12.5 million shillings (\$6,400).

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

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution and law provide for freedom of movement, foreign travel, emigration, and repatriation; however, the government at times limited these rights in practice.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Travel restrictions were imposed on opposition party members, journalists, and others with pending charges of sedition and treason. Domestic travel restrictions imposed on senior Buganda Kingdom officials triggered violent riots in September (see section 1.a.).

A married woman must obtain her husband's written permission on her passport application if children are to be listed on her passport.

The country has no law on forced exile; however, the government did not use forced exile during the year. Internally Displaced Persons (IDPs)

Improved security in the north combined with the government's implementation of the Peace, Recovery, and Development Plan and the work of international and local NGOs to rebuild physical and social infrastructure encouraged the return of 85 percent of the estimated 1.1 million IDPs in the LRA-affected north by year's end. According to the UNHCR, 184,000 IDPs remained in camps in northern Uganda's Acholi region. All IDPs in the Lango and Teso regions had returned to their homes by year's end. Conditions in IDP camps improved as a result of the lowered IDP population; however, remaining IDPs still lacked potable water, health care, schools and trained teachers, housing, and land.

Protection of Refugees The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 protocol, as well as the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. Its laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The government also provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government provides temporary protection to individuals who may not qualify as refugees under the 1951 Convention and 1967 protocol; however, no individuals received such protection during the year.

Some Kenyan refugees complained that the government's self-sufficiency policy, which requires refugees to become self-sufficient by providing them with land to cultivate, was ineffective because most refugees were merchants and businessmen rather than farmers.

There is no path to naturalization for refugees in the country. The government's stance on local integration is that the constitution does not allow time in country as a refugee to count toward the residency requirement for naturalization. Between January and May, the government assisted the UNHCR in the voluntary repatriation of 29,909 refugees to Southern Sudan and 5,571 refugees to Rwanda.

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

The constitution and law provide citizens with the right to change their government peacefully; however, the ruling party's domination of the government and

some restrictive constitutional and statutory provisions limited citizens' effective exercise of this right.

Elections and Political Participation.—The 2006 presidential and parliamentary elections, the first multiparty general elections since President Museveni came to power in 1986, were marred by serious irregularities. Police recorded 450 cases of violence during the electoral period. More than 100 election challenges were filed in the High Court and the Constitutional Court following the 2006 elections, including charges of bribery, intimidation, incidents of violence, multiple voting, and ballot stuffing. Six election appeals were pending before the Constitutional Court and three at the Supreme Court at year's end. Three by-elections were held during the year to fill the seats declared vacant by the High Court in 2007; election monitors reported numerous irregularities.

On May 21, the Ugandan Electoral Commission conducted local council elections in 1,474 electoral areas in 79 districts to fill vacant seats resulting from the lack of nominations in the 2006 general elections, resignations, deaths, and the creation of some new seats in town councils and subcounties. Voter turnout was relatively low, but the exercise was peaceful. The ruling NRM party operated without restriction, regularly holding rallies and conducting political activities. Approximately 36 other parties were registered and allowed to function, although members of some parties were subject to political violence, and authorities sometimes restricted opposition parties' ability to meet or demonstrate. Political involvement was primarily concentrated within the elite. Membership in the NRM conferred greater access to government positions and resources.

Police arbitrarily arrested opposition members during the year.

For example, on May 31, police in Kampala arrested and later released without charge 30 members of the Uganda Federal Alliance (UFA), a pressure group advocating for a federal government. The suspects were arrested in Owino Market while selling UFA membership cards.

On June 3, police in Kampala arrested without charge FDC deputy spokesperson Sarah Eperu for allegedly spreading harmful propaganda during celebrations to mark Martyr's Day at Namugongo, near Kampala. FDC officials claimed Eperu was only distributing leaflets with the message, "FDC wishes you a blessed Martyrs' Day celebration." On June 4, Eperu was released.

On July 11 and 12, police in Kampala arrested 19 DP members from the Kyengera and Ndeeba suburbs of Kampala. The suspects were collecting signatures in an effort to block a government proposal to take over the management of Kampala and expand the city's boundaries. On July 13, the suspects were charged with criminal trespass, illegal assembly, and interfering in police work. The suspects were released on bail, and the case was pending at year's end.

On September 3, police in Lira arrested UPC member Godwin Acai for statements he made during an August talk show on Unity FM radio. Authorities alleged Acai falsely claimed that the UPDF was involved in the 2004 killings of more than 400 civilians at Barlonyo IDP camp. Acai, who was detained in police custody for four days, appeared in court on September 7 and was remanded to prison without charge. Acai appeared in court again on November 3 and December 3, but the government failed to produce evidence against him. The case was adjourned until January 2010.

On September 28, police in Kampala charged opposition parliamentarian and DP member Erias Lukwago and Buganda Kingdom's deputy information minister Medard Lubega Segona with sedition for alleged statements during the September 10-12 riots in Kampala. Both were released on bail, and the case was adjourned pending resolution of the 2005 challenge to the country's sedition law (see section 2.a.).

The hearing of the March 2008 and August 2007 sedition cases against Makindye West MP Hussein Kyanjo was still pending a Supreme Court ruling on the constitutionality of the sedition law. Kyanjo stated in a 2007 talk show that President Museveni and other government officials used their positions to displace persons in the Kisozi region and promote hostility between ethnic groups.

The July 2008 hearing of the sedition case against Buganda Kingdom deputy information minister Medard Seggona Lubega and Buganda Central Civic Education Committee chairperson Betty Namboze was still pending a separate ruling on the constitutionality of the sedition law. No charges were filed against the minister for information and cabinet affairs, Charles Peter Mayiga, who was released on bond in 2008 pending investigation. The three had publicly criticized the government's proposed amendments to the 1998 Land Act.

On August 18, police in Kampala arrested 11 members of the FDC youth wing for participating in an illegal assembly; the 11 included Hajji Twaibu Kakande, Festos Kurumira, Ali Buni, Mukiibi Sserunjogi, Muhammad Mutaasa Ali, Samuel

Ariho Mugumya, Catherine Ddembe, Martin Musaaizi Kanuma, Joseph Mulyankya, Isaac Mawanda, and Andrew Wakibogo. On August 19, a court in Kampala charged the suspects with holding an unlawful assembly and inciting violence. On August 20, the court released the suspects on bail. The case was pending at year's end.

On August 31, police questioned FDC youth leader Abedi Nasser Obole for allegedly organizing and participating in unlawful assemblies. On September 1, a Kampala court charged Obole with participating in an August 18 unlawful assembly and released him on bail; however, police rearrested Obole for threatening the Electoral Commission's chairman and four commissioners. During a September 2 court hearing, Obole denied the charges and was released on bail. On October 28, Obole appeared in Makindye Magistrate's Court on the charge of threatening the Electoral Commission's chairman and four commissioners. The court adjourned the case on November 15 and again on December 15 for lack of witnesses and police documentation. Hearings were rescheduled for February 2010. On November 30, due to lack of witnesses, the Buganda Road Magistrate's Court postponed until January 2010 a hearing against Obole for participating in unlawful assembly.

There were 102 women in the 333-member parliament. Of these, 80 held seats designated for women. There were 14 female ministers in the president's 66-member cabinet. The deputy speaker and the deputy chief justice of the Supreme Court were women.

The law requires elections through electoral colleges for the seats reserved for special-interest groups in parliament: 80 seats were reserved for women; five for organized labor; five for persons with disabilities; five for youth; and 10 for the army, selected by the UPDF High Command and President Museveni.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government investigated offenders, but officials engaged in corrupt practices with impunity, and corruption was a serious problem. The government selectively enforced financial disclosure laws. Government agencies responsible for combating corruption include the IGG, the Department of Public Prosecution (DPP), the Anticorruption Division of the High Court, the parliamentary Accounting Committee, the police CID, the Office of the Auditor General, and the Directorate for Ethics and Integrity. Political will to combat corruption at the highest levels of government remained weak, and corruption cases remained pending for years. The World Bank's most recent Worldwide Governance Indicators reflected that corruption was a severe problem. On August 19, President Museveni signed into law the 2008 Anticorruption Bill. The new law increases powers of the IGG and DPP to investigate public and private corruption, provides for the disposal of property related to corruption investigations, and allows for confiscation of property derived directly or indirectly from corruption. The law also increases protections for witnesses and informants. In September a study conducted by the Public Procurement and Disposal of Assets Authority, which reports to the Ministry of Finance, estimated that corruption in the public procurement process resulted in an annual loss of 474 billion shillings (\$250 million).

A number of government ministries and agencies were implicated in corruption. Hearings conducted by the parliamentary Accounting Committee linked at least 12 ministries and several senior government officials to misuse of funds intended for the country's hosting of the 2007 Commonwealth Heads of Government Meeting (CHOGM). A 2008 investigation by the Auditor General of CHOGM procurements failed to account for approximately 53.3 trillion shillings (\$27 million) in unexplained expenses.

Judicial corruption was a problem, and in August the Judicial Service dismissed Aggrey Bwire, a grade I magistrate of Nabweru subcounty, and Jimmy Agolei, a grade II magistrate of Kiboga District, for corruption and abuse of office. On November 15, a court in Mbarara convicted grade II magistrate Moses Ndifuna of abuse of office for soliciting and receiving a 190,000 shilling (\$100) bribe. Ndifuna, who was sentenced to two years' imprisonment and ordered to refund the money, was released on bail in December pending hearing of his appeal.

The National Agricultural Advisory Services, the National Social Security Fund, the National Forestry Authority, the Uganda National Roads Authority, and the police were all investigated for corruption during the year. The ministries of health, education, and water and environment were also involved in numerous corruption scandals.

Members of the Anti-Corruption Coalition Uganda were harassed by security services in December following publication of a booklet detailing survey results on local perceptions of government corruption.

The Anticorruption Division of the High Court (ACD), which has three judges and five magistrates on staff and can only hear corruption cases referred by the IGG

and DPP, convicted seven individuals of corruption during the year. Four of these were convicted of stealing money from the Global Fund to fight AIDS, Tuberculosis, and Malaria. At year's end all four were free on bail pending hearing of their appeals.

On March 13, the ACD sentenced Fred Kavuma, former employee of Uganda Television, to five years' imprisonment for using false documents to unlawfully obtain 41 million shillings (\$21,200) from the Global Fund. Kavuma was ordered to refund the money and was released on bail on September 10, pending hearing of his appeal.

On April 8, the ACD sentenced Teddy Seezi Cheeye, the Internal Security Organization's director of economic monitoring, to 10 years' imprisonment for embezzling 107 million shillings (\$56,600) of Global Fund money. Cheeye was ordered to refund the money to the Global Fund and was released on bail on July 24 pending the hearing of his appeal.

On July 14, the ACD convicted Annaliza Mondon and Elizabeth Ngororano of embezzling Global Fund money; each was sentenced to five years' imprisonment and ordered to repay 26 million shillings (\$14,000) to the Global Fund. On August 14, Mondon and Ngororano were released on bail pending appeal.

On August 31, a magistrate's court in Kampala charged and remanded to prison Winnie Musoke Kabogonza, the police department's undersecretary and accounting officer, for failing to remove duplicate names and bank accounts from the police payroll, resulting in a loss of 1.7 billion shillings (\$880,000). Also charged and arrested were Dennis Nyagweso, Dennis Twinamasiko, Alfred Okello, Ashe Kawooya, Primo Nyokatre, and Harriet Kyomugisha. On September 9, the Anticorruption Court granted bail to Kabogonza, Nyagweso, Twinamasiko, and Nyokatre; the case was pending at year's end.

An IGG report on investigations into the corruption case against solicitor general Lucien Tibaruha and acting litigation director Joseph Matsiko, who were indicted in 2007 for mismanagement resulting in financial loss to the government, was still pending at year's end. Both Tibaruha and Matsiko remained suspended from their offices.

There were no developments in the 2008 parliamentary investigation into former IGG Faith Mwendha's interventions in public tendering processes and allegations that her salary was higher than allowable under government policy; the IGG had not appeared before the committee at year's end.

No action was taken on the investigation into the 2007 case involving Martin Odwedo, the former permanent secretary in the prime minister's office, and three others for failure to account for 1.3 billion shillings (\$673,000).

The parliamentary Committee on Public Accounts completed its examination of the auditor general's report of the 2006-07 budget, but the committee's report had not been published at year's end.

An estimated 17,000 public officials were subject to financial disclosure laws. On November 2, the government suspended the Ministry of Health's principal accountant, Nestor Gasasira, after an IGG investigation revealed that Gasasira's expenditures were incommensurate with his earnings. The IGG recommended firing Gasasira for failing to publicly account for his wealth.

The law provides for public access to government information, and the government provided such access to citizens and noncitizens, including foreign media.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were receptive to their views. Active, independent domestic groups included the FHRI, Human Rights Focus, Human Rights Network, Human Rights and Peace Center of Makerere University, the International Federation of Human Rights, the Justice and Peace Commission, the Uganda Journalist Safety Committee, the Uganda Prisoner's Aid Foundation, and the Uganda Association of Women Lawyers. Government officials continued to attend conferences and seminars hosted by NGOs on social problems and cooperated with NGOs on legal and prison reforms.

In January 2008, in response to NGO criticism and after consultation with civil society, the government established a committee to review the 2006 NGO Registration Act, which requires most NGOs, including religious organizations, to renew their registration permits annually (see section 2.b.). Enforcement of the law remained suspended during the review process.

The government cooperated with international governmental organizations and permitted visits by UN representatives and organizations such as the ICRC. The UHRC is a permanent independent body with quasijudicial powers, although the

president appoints the UHRC's seven-member board. Under the law, the UHRC may subpoena information, order the release of detainees, and order the payment of compensation for abuses. On May 7, President Museveni reappointed two and named five new commissioners to the UHRC to fill vacancies. The appointments allowed the UHRC to resume its work, which had been stalled since November 2008, when the term of the previous team expired. The UHRC continued to pursue suspected human rights abusers, including in the military and security forces, and had branches countrywide; however, its resources were inadequate to investigate all complaints received.

On October 12, the UHRC released its 11th annual report to parliament, in which it called on the government to ban torture and renounce the use of "safe houses," the unregistered detention facilities operated by JATT and the CMI. The report also highlighted lengthy trial delays, overcrowding, and poor health services as the main challenges facing the prison system. The report maintained that detention of suspects beyond the constitutional limit of 48 hours was "rife."

In its April 8 "Open Secret" report, HRW called on the government to end all torture and mistreatment of detainees; stop arrest and interrogation by unauthorized security forces, including JATT; and release all detainees from the JATT headquarters in Kololo and close it as a place of detention. For detainees in Kololo for whom there is a legal basis for detention, HRW urged the government to immediately transfer them to police custody, where they could be charged with a legally recognizable offense, if appropriate. HRW further urged the government to promptly inform the relatives of each detainee of their whereabouts, condition, and the charges against them. Those charged should be tried before courts that met international fair trial standards. HRW also called on the government to end impunity for human rights violations of the right to life and fair trial; the right to be charged before a judge within 48 hours of arrest; and freedom from torture and ill-treatment, arbitrary arrest, and prolonged arbitrary detention.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status; however, the government did not enforce the law in matters of locally or culturally prevalent discrimination against women, children, persons with disabilities, or certain ethnic groups.

Women.—The law criminalizes rape; however, rape remained a serious problem throughout the country, and the government did not consistently enforce the law. Although the government arrested, prosecuted, and convicted persons for rape during the year, the problem was underreported, and most cases were not investigated. Police lacked the criminal forensic capacity to collect evidence related to sexual assault, which hampered prosecution and conviction. There were 1,536 rape cases registered with the police in 2008, of which 241 went to court, resulting in only 52 convictions.

Domestic violence against women, including spousal abuse, remained widespread, and reports of such incidents continued to increase. Approximately 48 percent of married women between the ages of 15 and 49 have experienced physical violence from their intimate partners, 36 percent have experienced sexual violence, and 49 percent have experienced emotional violence. Many law-enforcement officials viewed wife-beating as a husband's prerogative, as did the majority of the population, and rarely intervened in cases of domestic violence.

On November 12, parliament passed the 2009 Domestic Violence Bill, which criminalizes domestic violence, expands protection for victims, and provides penalties for abusers ranging from fines to two years' imprisonment. During the year the government arrested and prosecuted 15 persons responsible for domestic violence. For example, police in Gulu District arrested Richard Tito Okello, who killed his wife Scovia Acayo on April 13 following a family argument; the case was pending at year's end. On August 18, police rearrested former Mukono District police chief James Aurien for the April 2008 killing of his wife Christine Opolot; the hearing was pending at year's end.

In September the police launched an informational campaign focused on marriage and child rights to further curb domestic violence.

The law requires that bride prices be nonrefundable gifts to the parents of the bride. Constitutional amendments in 2007 did not abolish the practice, despite recommendations from civil society groups. On September 8, the Constitutional Court started hearing a petition against the practice filed in 2007 by the Mifumi Project, a women's rights group that claims bride prices impede the right of a woman to choose her husband and also exacerbate domestic violence. A court ruling was pending at year's end.

Prostitution is illegal but common. In August the Uganda AIDS Commission reported that 11 percent of new HIV/AIDS infections were due to commercial sex. In July the government stopped the recruitment of women as domestic workers abroad following reports that many were being forced into prostitution.

Although it is prohibited with penalties of up to 14 years' imprisonment, sexual harassment was a widespread problem, and the government did not enforce the law effectively. In April police inspector general Kale Kayihura created a committee to investigate allegations of abuse of female police officers by senior male colleagues. Findings of the committee had not been released by year's end.

No report was issued during the year by the committee established in May 2008 to investigate allegations that male lecturers in Makerere University coerced female students into sexual acts as a condition for receiving good grades.

There were no reports of findings by a team from the Ministry of Health that investigated 2007 allegations of sexual harassment filed by 30 nurses against a senior staff member in Nakaseke Hospital.

There are no laws restricting couples and individuals from deciding freely and responsibly the number, spacing, and timing of their children; however, information and assistance on family planning topics relevant to these issues were difficult to obtain, particularly in rural areas, where there were few health clinics. A 2006 survey found that 41 percent of married women had unmet family planning needs. There was no indication of discrimination in diagnosis or treatment of sexually transmitted infections, including HIV/AIDS.

The law requires that women be accorded full and equal dignity of the person with men. However, discrimination against women continued to be widespread, especially in rural areas where it was part of traditional culture. Many customary laws discriminate against women in adoption, marriage, divorce, and inheritance. Under local customary law in many areas, women cannot own or inherit property or retain custody of their children. Traditional divorce law in many areas requires women to meet stricter evidentiary standards than men to prove adultery. Polygyny is legal under both customary and Islamic law, and, in some ethnic groups, men can "inherit" the widows of their deceased brothers. Women also experienced economic discrimination. For example, women did most of the agricultural work but owned only 7 percent of the agricultural land. Women also experienced economic discrimination in access to employment, credit, pay, and in owning or managing businesses.

Eliminating gender inequality remained a high priority for the government, which, in conjunction with NGOs and women's rights groups, sponsored workshops and training throughout the country to increase awareness of women's rights.

Children.—Citizenship is afforded to children born in or outside of the country if at least one parent or one grandparent held Ugandan citizenship at the time of the child's birth. Children under the age of 18 who are abandoned in the country with no known parents are considered to be Ugandan citizens, as are children under the age of 18 adopted by citizen parents.

The 2006 Uganda Demographic and Health Survey reported that only 21 percent of rural and 24 percent of urban children had their births registered; however, lack of registration generally did not result in denial of public services.

In August 2008 parliament passed a law that provides for tuition-free and compulsory education for the first seven years of primary school or through high school for especially underprivileged students. Students, except for the underprivileged, still had to pay for school supplies and some school operating costs, and many parents could not afford the school fees. Boys were more likely to finish primary school. The highest level of education achieved by most children was the fourth year of primary school.

Child abuse remained a serious problem, particularly rape and other sexual abuse of girls.

A September report released by the African Network for Prevention Against Child Abuse and Neglect showed that 8,286 child-related abuses were reported to police and other sources between January and April. Of the total, 2,592 cases involved defilement, 1,292 involved disappearance, and 1,613 involved child stealing or kidnapping. The report cited other offenses committed against children, including torture (773 cases), desertion (594 cases), child trafficking (100 cases), child neglect (680 cases), infanticide (317 cases), and assault (325 cases).

Reported incidents of corporal punishment in schools continued to decrease since the 2006 ban on the practice. Sexual contact outside of marriage with girls less than 18 years of age, regardless of consent or the age of the perpetrator, is considered "defilement" under the law and carries a maximum sentence of death; however, such cases often were settled by a payment to the girl's parents. According to police statistics, in 2008 there were 8,635 reported defilement cases, of which 4,124 went to court, with only 333 resulting in convictions.

Perpetrators of sexual abuse often were family members, neighbors, or teachers. On May 3, a court in Nebbi District, West Nile Region, remanded Colber Ruping to prison for defiling a six-year-old girl. The court charged Ruping with aggravated defilement, and the trial was pending at year's end.

On June 2, the Kampala High Court sentenced former primary school teacher John Bosco Ssempijja to 12 years in prison for defiling two female students of St. Mary Kevin Kajjasi school in February 2008.

On June 27, police in Bukedea District, Eastern Region, arrested teacher Joseph Ibaat after he was found defiling a 16-year-old girl of Life Line Secondary School. Hearing of the case was pending at year's end.

On July 13, police arrested teacher Gyaviira Nsika for sexually abusing 32 female pupils; Nsika was subsequently convicted and sentenced to two years' imprisonment.

In an effort to clear the backlog of cases, in 2007 the government amended the 2006 Magistrate's Courts Bill, giving chief magistrates the authority to hear rape cases of girls between the ages of 14 and 17; the High Court continued to try cases involving rape of girls younger than 14 years. In February the UPF announced that it would provide free rape and defilement medical examinations throughout the country to ensure that investigations were effectively carried out and perpetrators prosecuted; some examinations were conducted during the year.

FGM was practiced by the Sabiny ethnic group in rural Kapchorwa District and the Pokot ethnic group along the northeastern border with Kenya despite local laws that prohibit the practice. In 2006 the subcounties of Kapchorwa and Bukwo districts passed bylaws to make FGM illegal; however, the practice still occurred. The government, women's groups, and international organizations continued to combat the practice through education. These programs, which received some support from local leaders, emphasized close cooperation with traditional authority figures and peer counseling.

Marriage of young girls by parental arrangement was common, particularly in rural areas, although the legal age for marriage is 18. Local NGO Concern for Children and Women Empowerment reported that acute poverty forced some parents to give away their children, including girls as young as 14 years, into early marriage and sexual arrangements. A March UN report stated that 32 percent of marriages involved underage girls. In December a court in Soroti District charged Mutwalib Adam, Yusuf Adam, Asha Adam, Mawuzu Shamim, Amoi Fatuma, Maimuna Katushabe, and Mariam Ramathana with compounding a felony for their role in aiding the marriage of a 14-year-old girl. The seven remained in detention at year's end, and an investigation was ongoing.

Reports of the ritual sacrifice of children increased during the year. For example, on March 7, police in Pallisa District arrested Issa Wayibi, Sebastian Musana, Bbumba Aramazan, and Daudi Byendala for the ritual killing of a girl the previous day in Butesa subcounty. An investigation was ongoing at year's end.

On April 16, police in Gulu District arrested John Okech and six of his family members for allegedly participating in the ritual killing of a one-year-old girl in Awach subcounty. An investigation in the case was pending at year's end.

The December 2008 case of businessman Godfrey Kato Kajubi, charged with the ritual killing of 12-year-old Joseph Kasirye, remained pending in court. On November 13, a court in Masaka adjourned the case to February 2010. Kajubi remained on remand along with Moses Musisi, Umar Kateragga, and Mariam Nabukeera, who confessed to killing the child on Kajubi's orders.

There were no reported developments in the 2007 ritual killing of a two-year-old child in Iganga District by family members Laston Muyaga, Jane Magezi, Elizabeth Kantono, and Aidah Kasubo.

On January 7, the Kampala High Court convicted and sentenced Ssenoga Setuhwa to 16 years in prison for stealing and selling a two-year-old child for sacrifice in 2006. Setuhwa was reportedly paid 100,000 shillings (\$52).

On April 29, UN special representative for children and armed conflict Radhika Coomaraswamy announced that Uganda had been removed from the list of countries that actively recruit children into the armed forces; in previous reports, the government was accused of turning a blind eye to the recruitment of children. Coomaraswamy said the country's "de-listing" was a result of its successful implementation of an action plan to demobilize and reintegrate child soldiers.

There were no reports that during the year the LRA abducted and conscripted children within the country. However, an estimated 5,000 of 40,000 children abducted by the LRA in previous years for use as laborers, soldiers, guards, and sex slaves were reportedly still missing. There continued to be numerous reports of LRA abductions of children in the DRC, CAR, and Sudan during the year.

In January police in Kampala rounded up approximately 200 street children, the majority from the Karamoja Region, and took them to Kampirigisa rehabilitation

home in Mpigi District. In October city authorities in Kampala rounded up 300 street children and delivered them to a rehabilitation home. Street children were often the victims of poverty, famine, and instability in Karamoja Region.

Trafficking in Persons.—Trafficking in persons was a problem, and there were reports that men, women, and children were trafficked to, from, and within the country. On October 1, President Museveni signed into law the 2007 Antitrafficking in Persons Bill to protect victims and prosecute traffickers. The act provides for a maximum of 15 years' imprisonment for trafficking in persons; imprisonment for life for aggravated trafficking; the death penalty for trafficking children; and 10 years' imprisonment for engaging the labor services of a victim of trafficking in persons.

Trafficking in persons primarily occurred internally for labor, commercial sexual exploitation, and criminal activities, but trafficking of Chinese and other Asian laborers to the country also occurred. There were reports that children were trafficked for labor from the country to Pakistan, Egypt, Turkey, the United Arab Emirates, Saudi Arabia, and Iraq.

Immigration and police officials reported that traffickers continued to use legal means to take children out of the country for illicit purposes. Some NGOs reportedly located children and convinced their families that the children would receive an education or better life if they were trafficked. An expatriate then entered the country on a tourist visa and obtained a guardianship order through the courts, usually with the permission of the family. The magistrates, at the insistence of the guardian, required the passport office to issue the child a passport. In a 2008 case involving two young boys taken to South Africa, immigration officials learned that one boy had died after his kidneys were harvested for a transplant. Immigration officials formed a task force to examine the trend and make recommendations to the ministries of internal affairs and justice.

Victims of internal trafficking were subjected to hazardous working conditions, and commercial sex victims were subjected to physical abuse and the risk of contracting sexually transmitted diseases. Victims of commercial sex trafficking in urban centers often came from small rural villages. According to NGOs, women and girls often willingly placed themselves with intermediaries fraudulently offering employment in other areas of the country, only to find themselves exploited for labor or sex. NGOs also found evidence of a well-connected network of traffickers who facilitated the movements of victims to prospective buyers, negotiated their salaries in advance, and received a percentage of their monthly wages. A 2007 study conducted by the International Labor Organization's (ILO) International Program on the Elimination of Child Labor found that women and girls could be purchased for approximately 5,000 to 30,000 shillings (\$2.60 to \$15.60) and used as domestic workers. In the case of child trafficking for labor and commercial sexual exploitation, intermediaries such as pimps, employment bureaus, churches, transporters, NGOs, fishermen, and peers lured children and facilitated their travel with accommodations and travel documents.

The Ministry of Gender, Labor, and Social Development (MGLSD) is the lead agency on child trafficking issues, the national police force is responsible for investigating trafficking related crimes, and the Justice Ministry and the Directorate of Public Prosecutions prosecute cases.

The government arrested suspected traffickers during the year and assisted with international trafficking investigations or extradited citizens accused of trafficking in other countries.

For example, on January 7, police in Kampala arrested Sylvia Kampiire, a Rwandan national, for allegedly stealing three-year-old Daina Nyakiti from Rwanda and transporting her to the country for trafficking. Police reported that they transferred Kampiire and the baby to Rwandan authorities.

On August 12, police in Lyatonde Town arrested Safe Hands for Africa Church pastor John Mubanda for holding four girls without the permission of their parents. The police rescued the girls and returned them to their families. A court charged Mubanda, who reportedly received three million shillings (\$1,500) from the parents of the girls for promising to provide them with an education, with obtaining money by false pretense. Mubanda, who pled guilty, was fined and ordered to refund the money.

Several victims of trafficking were deported during the year.

For example, in May police in Kampala rescued Sri Lankan nationals Nadarasa Jagatheeswaran, Mohammed Murras Abdul, Verupillal Ratman Jeevtharan, Writheran Suntharalingam, Rajathumi Makesvarn, and Sebastian Christopher from suspected human traffickers in Makindye Ssabagabo subcounty. The victims, who were deported to Sri Lanka, claimed they had been promised jobs by Sri Lankan nationals Alputha-Kumar and Nithianan, both of whom were believed to fugitives.

During the year the International Organization on Migration (IOM) repatriated 13 Ugandan women who had been recruited by a local Ugandan firm to work as domestic servants in Iraq. Some of the women reported abuse, including sexual harassment, at the Iraqi homes where they worked. In July authorities questioned the management of Uganda Veterans Development Ltd, the local external employment agency that recruited them. While no specific sanctions were placed on the company, the government did suspend the recruitment of Ugandan women to work as domestic servants abroad.

The four Ugandan girls who were stranded in Iraq in 2008 after their employers confiscated their passports were returned to the country and reunited with their families, according to the police Anti-Human Sacrifice and Trafficking in Persons Task Force Unit. An investigation was still ongoing at year's end.

The government's prosecution of child defilement cases included an undetermined number of cases involving trafficked children.

The government and NGOs worked together to identify and provide assistance to persons at risk for trafficking. However, the government deported victims of foreign origin, unless the minister of internal affairs granted an extended stay to aid in prosecution of the case. The UPDF has child protection units in all districts and, along with government agencies, continued to work with NGOs to reintegrate thousands of former LRA abductees into society.

In January police established an Anti-Human Sacrifice and Trafficking in Persons Task Force Unit with investigative teams at the national, regional, and district levels to curb trafficking in persons and increased ritual killings.

The national police maintained a Child and Family Protection Unit to train local police on women's and children's rights, including identification of trafficking victims and prevention of trafficking. The police also allowed the local NGO Uganda Development Youth Link to place its social workers in police stations to assist children and other trafficking victims, primarily in Kampala District.

The State Department's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, and the provision of other state services; however, the government did not enforce the law effectively. Persons with disabilities also faced societal discrimination and limited job and educational opportunities. There was no statutory requirement that buildings be accessible to persons with disabilities; however, the law requires that children with disabilities be given necessary special facilities.

The UHRC continued to receive complaints of discrimination in employment and access to transport, cell phone, and other public services from persons with disabilities. Most schools in the country did not accommodate persons with disabilities. In July Francis Kinubi, chairman of the National Union of Disabled Persons in Uganda, reported that the Public Service Commission had failed to formalize the employment of persons with disabilities who had worked in government service for as long as 10 years.

No action was taken to assist the 40 prison inmates with impaired hearing who had been denied a trial, health services, and education because they could not communicate.

The government supported the right of persons with disabilities to vote and participate in civic affairs; five seats in parliament were reserved for representatives of persons with disabilities. Government agencies responsible for protecting the rights of persons with disabilities included the Ministry of State for Disabled Persons and the MGLSA but both lacked sufficient funding to undertake or support any significant initiatives. In August the president appointed members to the Equal Opportunities Commission, which is responsible for enforcing laws that protect persons with disabilities and ensure that they have equal access to public office. National/Racial/Ethnic Minorities

There were isolated reports of violence between ethnic minorities in some parts of the country. For example, in August a group of ethnic Madi forcefully evicted several families of the Alur ethnic group from Kasomenga village in Rhino Camp sub-county. During the eviction property was destroyed and several grass-thatched huts were torched. The police in Arua District arrested and remanded to prison six suspects who were alleged to have incited the violence, and the case was ongoing at year's end.

During the September 10-12 riots in Kampala, demonstrators harassed Asian business owners and looted and destroyed some of their shops; the actions reflected public perception that the government favored Asian investors and businessmen with tax breaks, land, and other incentives unavailable to local businessmen.

Indigenous People.—The Batwa were the original inhabitants of land used by the government in 1992 to establish Mgahinga National Park, Bwindi Impenetrable National Park, and Echuya Central Forest Reserve. Numbering approximately 6,700 persons, the displaced Batwa lived in the districts of Bundibugyo, Kisoro, Kabale, Kanungu, Masaka, and Mbarara in the southwest and had limited access to education, health care, or economic opportunities. They were also prevented from pursuing hunting, gathering, and other traditional ways of life and often suffered food shortages. In March the United Organization for Batwa Development petitioned parliament to recognize Batwa rights to their former ancestral land to preserve their cultural values.

Societal Abuses and Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Lesbian, gay, bisexual, and transgender (LGBT) persons faced discrimination and legal restrictions. It is illegal to engage in homosexual acts, based on a 1950 legal provision from the colonial era criminalizing “carnal acts against the order of nature” and prescribing a penalty of life imprisonment. No persons have been charged under the law. The September introduction in parliament of a bill providing the death penalty for “aggravated homosexuality” and for homosexual “serial offenders” resulted in increased harassment and intimidation of LGBT persons during the year; the proposed legislation also provides for a fine and three years’ imprisonment for persons who fail to report acts of homosexual conduct to authorities within 24 hours.

Public resentment of homosexual conduct sparked significant public debate during the year, and the government took a strong position against such conduct despite a December 2008 ruling by the High Court that constitutional rights apply to all persons, regardless of sexual orientation. The local NGO Sexual Minorities Uganda (SMUG) protested alleged police harassment of several members for their vocal stand against sexual discrimination.

For example, on April 5, police in Mbale District arrested SMUG activists Fred Wasukira and Brian Mpadde. On April 17, a court in Mbale charged Wasukira and Mpadde with homosexual conduct and remanded the suspects to Maluke prison. On May 20, the court released Wasukira on police bail; Mpadde was released on June 16. The case was ongoing at year’s end.

On June 19, police in Kitgum interrogated former police coach Charles Ayeikoh over allegations that he was involved in homosexual acts. An investigation was ongoing at year’s end.

In July the administration of Mbalala Senior Secondary School in Mukono District dismissed student John Paul Mulumba after he acknowledged that he was a SMUG member.

During the year the UHRC stopped investigating the July 2008 case in which SMUG activist Usaam Mukwaya alleged that police tortured and humiliated him during an illegal detention; Mukwaya reportedly decided not to pursue the case.

During the year police dismissed for lack of evidence a September 2008 case against SMUG members George Oundo and Brenda Kiiza, who were charged with indecent practices.

LGBT persons were also subject to societal harassment and discrimination.

For example, on March 17, the Uganda Joint Christian Council and the Family Life Network launched a campaign to curb homosexual conduct in higher institutions. SMUG accused the organizers of using religion to attack the LGBT community in the country.

On June 24, the Uganda Coaches Association instituted a code of conduct that requires members to denounce support for or involvement in homosexual activity.

In June in Entebbe, activists organized a three-day workshop to discuss the rights of LGBT persons and ways to address increasing public resentment against homosexual activity in the country.

Other Societal Violence or Discrimination.—Discrimination against persons with HIV/AIDS was common and prevented such persons from obtaining treatment and support. International and local NGOs, in cooperation with the government, sponsored public awareness campaigns to eliminate the stigma of HIV/AIDS. Counselors encouraged patients to be tested with their partners and family so that they all received information about living with HIV/AIDS. Persons living with HIV/AIDS formed support groups to promote awareness in their communities.

Section 7. Worker Rights

a. The Right of Association.—The law allows workers, except for “essential” government employees, including police, army, and management level officials, to form and join independent unions, but all unions must be registered either under the National Organization of Trade Unions or the Confederation of Trade Unions. The law allows unions to conduct their activities without interference. Union officials esti-

mated that more than 1.2 million workers were unionized, representing approximately 10 percent of workers.

The law criminalizes any effort by an employer to obstruct the right of association; however, the government generally did not enforce this provision. Labor activists claimed several companies did not allow employees to join unions, including Dot Services and Cementers and Multiplex (both road construction companies); Mansons, a clearing, forwarding and transport company; West Nile Rural Electrification Company; BIDCO Uganda Ltd, an edible oil company; Mukwano Manufacturing Industries; Kawere Coffee Ltd; and Kibimba Rice Scheme.

The law provides for the right to strike, and workers exercised this right; however, government policy required labor and management to make “every effort to reconcile labor disputes before resorting to strike action.” The government did not always protect the right to strike, and police arrested persons engaged in organizing strikes during the year.

For example, in May police in Mukono arrested and later released 31 sugar cane cutters of Lugazi Sugar Corporation during a strike to protest low pay and poor working conditions.

In February a court in Mukono acquitted 75 workers of Lugazi Sugar Corporation on charges of destruction of company property during a strike in November 2008.

The plantation union reported that the four workers from the Kakonde Tea Estate arrested in 2007 for organizing a strike were released during the year following negotiations with the management.

b. The Right to Organize and Bargain Collectively.—The law provides for collective bargaining; however, the government did not protect this right in practice. Some employers ignored the legal requirement to enter into collective bargaining agreements with registered unions, but a few employers recognized the agreements. No public service unions, including medical staff and teachers, were allowed to negotiate their salaries and employment terms. The government fixed the terms and conditions for all civil service workers. There were no reports of antiunion discrimination during the year. Despite the dismissals of 100 workers from Kasese Cobalt and another 100 workers from Hwansung, Ltd, for participating in union activity, the government took no action and did not investigate reports that employers suppressed union activity.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred, particularly in prisons. While the law does not expressly prohibit prison labor, it states that such labor becomes forced if the worker is “hired out to or placed at the disposal of a private individual, company, or association.” NGOs and the UHRC reported that forced labor was a problem in local prisons nationwide. Prison officials hired out prisoners to work on private farms and construction sites where the prisoners were often overworked. Prison officials routinely supplemented their wages with cash crops grown by prisoners on prison grounds. Male prisoners performed arduous physical labor while female prisoners produced marketable handicrafts such as woven basketry. Juvenile prisoners performed manual labor, often for 12 hours a day. Compensation, when paid, generally was very low.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits employers from hiring workers below the age of 18; however, statutory orders issued by the MGLSD permit the employment of children between the ages of 14 and 18, and 13-year-olds are allowed to engage in “light work” provided it does not interfere with education. Children under the age of 12 are prohibited from being employed in any business or workplace, and all children are prohibited from being employed during school hours. Nevertheless, child labor was common, especially in the informal sector.

Many children left school and engaged in agricultural or domestic work to help meet expenses or perform the work of absent or sick parents, a situation common throughout the country. The problem was particularly acute among the large orphan population. In June the Bureau of Statistics estimated that more than 1.76 million children, including 798,451 girls, between the ages of five and 17 (17 percent) were involved in child labor.

In urban areas children sold small items on the street, worked in shops, begged for money, and were involved in the commercial sex industry. Children were also employed in stone quarries, cattle herding, brick making, and commercial farming of tea, coffee, sugarcane, vanilla, tobacco, and rice. The MGLSD reported new incidents of the worst forms of child labor, including children involved in illicit activities such as cross-border smuggling. Government officials noted that child exploitation in the informal sector was of particular concern and was difficult to investigate.

Children were known to be working as subsistence farmers, domestic servants, and prostitutes.

The ILO and the Federation of Uganda Employers sponsored a January 2008 survey on child labor in the fisheries and tobacco industries that found that most of the 291 children sampled worked long hours and that 71 percent were involved in hazardous work. Of the children involved with fisheries, 31 percent worked at night, and all were exposed to waterborne diseases, fatigue, a high risk of contracting HIV/AIDS, and injuries. Children on tobacco farms worked long days, dropped out of school during peak periods of tobacco production, and were exposed to dangerous chemicals, smoke, and dust.

Institutions responsible for enforcing child labor laws and policies include the National Council of Children, the police force's Child and Family Protection Unit, the Industrial Court, and the MGLSD; however, financial constraints limited efforts. The MGLSD continued to offer social services to children working in the worst forms of child labor and other target groups, and it conducted training for staff, local leaders, and district labor inspectors. Sixty MGLSD district labor officers reported on child labor issues at the local level. The government coordinated its efforts to stop child labor through the National Steering Committee on Child Labor, which included representatives of the MGLSD, the Ministry of Education and Sports, the Ministry of Local Government, the Federation of Uganda Employers, the National Organization of Trade Unions, NGOs, journalists, and academics. However, due to lack of funds and logistical support, district labor officials have not conducted child labor inspections since 2004.

The government organized a number of child labor awareness workshops, disseminated printed information, and sponsored radio and television discussions to educate the public on child labor issues. The government also cooperated with the ILO, foreign governments, and NGOs on several initiatives to combat child labor, including the education and reintegration of children into their communities. Several human rights NGOs continued programs to remove children from hazardous work situations.

e. Acceptable Conditions of Work.—The minimum legal wage was 6,000 shillings (\$3.16) per month, a rate set in 1984 that did not provide a decent standard of living for a worker and family and was not effectively enforced. The government and the private sector negotiated a new rate in 2003; however, the 2003 rate had not been implemented by year's end.

The law includes provisions for district labor inspectors to "secure the enforcement of legal provisions relating to conditions of work and the protection of workers while engaged in their work"; however, no inspections were carried out during the year, due in part to financial constraints.

In industries that employed workers on an hourly basis, the normal workweek was 40 hours. The legal maximum workweek is 48 hours; however, exceptions can be made with agreement of the employer and employee. The law provides for an employee who works in excess of 48 hours per week to be remunerated at the minimum rate of 1.5 times the normal hourly rate for the overtime hours and two times the hourly rate on public holidays. The law also states that working hours may not exceed 10 hours per day or 56 hours per week, including overtime hours; however, an employee may work in excess of 10 hours a day if the average number of hours over a period of three weeks does not exceed 10 hours per day or 56 hours per week. Employees are granted a 30-minute break for every eight-hour work shift. For every four months of continuous employment, an employee is entitled to seven days of paid annual leave per calendar year. Many industries paid workers annual increments or bonuses as payoffs to avoid overtime.

The law establishes occupational health and safety standards, and the MGLSD's Department of Occupational Health was responsible for enforcement of occupational safety regulations. In practice inspections were very rare, primarily due to the lack of vehicles and funding for inspection trips, and standards were not effectively enforced. The law also provides workers the right to remove themselves from situations that endanger their health or safety without jeopardy to their employment. However, there were reports that workers were dismissed for their refusal to perform dangerous work.

In September Mulugeshe Kittan, a manager with AK Plastics, allegedly assaulted Rashid Kibirango, a machine operator, after he refused to enter a hot plastic-molding machine. Kibirango reported the case to police, and a court hearing was pending. Kibirango resigned after management declined to transfer him to another section.

The MGLSA recorded four deaths due to poor safety practices at several construction projects during the year.

ZAMBIA

Zambia is a republic of 12.5 million citizens governed by a president and a unicameral national assembly. The ruling Movement for Multiparty Democracy (MMD) exerted considerable influence through its patronage and allotment of government resources. In an October 2008 by-election, then-vice president Rupiah Banda was elected president in generally free and fair multiparty elections. Civilian authorities generally maintained effective control of the security forces.

The government's human rights record remained poor, and it deteriorated during the year in a few areas. Human rights problems included an unlawful killing; torture, beatings, and abuse of suspects and detainees by security forces; official impunity; life-threatening prison conditions; arbitrary arrests and prolonged pretrial detention; long trial delays; arbitrary interference with privacy; restrictions on freedom of speech, press, assembly, and association; government corruption; violence and discrimination against women; child abuse; trafficking in persons; discrimination based on sexual orientation and against persons with disabilities; restrictions on labor rights; forced labor; and child labor.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed politically motivated killings; however, security forces committed an unlawful killing during the year. The Legal Resources Foundation (LRF), an independent human rights nongovernmental organization (NGO) that counseled victims' families and represented them in actions against the government, consistently investigated and publicized such incidents; however, the government rarely punished perpetrators. Police and government officials encouraged police officers to use their weapons when apprehending suspects, despite a government directive that restricted the use of firearms by police officers and a government pledge to restrain police on the use of force.

On February 22, police officers at Chelstone Police Post in Lusaka shot and killed 20-year-old student Maybin Chongo as he fled by car. Police stated that they suspected Chongo was eluding capture. The case remained pending at year's end.

There were no developments, and none were expected, in the following 2008 cases: the April police beating to death of Alfred Nyanga; the May police beating to death of Robert Chimwang'a; and the September alleged killing of Gregory Kalezhi by a police patrol.

There were no developments, and none were expected, in the following 2007 police killings: the January shooting death of a man caught siphoning fuel; the February alleged rape and killing of a female suspect in custody; and the October shooting death of a suspect who refused to relinquish a fuel container to police.

In 2007 the Lusaka High Court ordered the government to pay the family of the late Chanda Chayafya 13.36 million kwacha (\$2,672) plus interest as compensation for Chayafya's death. The police killed Chayafya, a security guard, in 1998. Chayafya was a suspect in the murder of former finance minister Ronald Penza. Chayafya's family's lawyers advised the family to appeal the amount of compensation to the Supreme Court.

Mob violence that targeted suspected criminals, persons accused of witchcraft, persons suspected of sexual impropriety, or persons with mental illness resulted in killings; no action was taken against perpetrators.

In February a mob in Kaoma killed an alleged arsonist and killer identified as "Kalaye" after he attempted to kill a couple with an assault rifle and burn down their house. Kaoma residents beat him to death when he attempted to escape from police custody.

There were no developments, and none were expected, in the following 2008 cases: the February mob stoning to death of a minibus driver; the March mob stoning of two men, one of whom died; and the April killing by a mob that stoned and set ablaze a man. No action was taken in cases of mob killings in 2007.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution prohibits such practices; however, police frequently used excessive force including torture when apprehending, interrogating, and detaining criminal

suspects or illegal immigrants. In 2008 the government's Human Rights Commission (HRC) reported that torture was prevalent in police stations and noted that "police officers continue to rely on torture as an interrogation technique." The HRC urged the government to draft and enact legislation that would criminalize torture and provide for compensation to victims; however, no legislation had been drafted by year's end. Authorities also detained, interrogated, and physically abused family members or associates of criminal suspects in attempts to identify or locate the suspects. Officers who tortured, beat, or otherwise abused suspects generally were not disciplined or arrested for such acts.

On February 5, the Lusaka High Court ordered the government to pay 65.7 million kwacha (\$13,140) plus 14 percent interest as compensation to Godfrey Michelo's family. Michelo died in 2000 in police custody after a police officer threw a teargas canister into his cell at the police station in Monze.

On March 16, Kawambwa police detained and assaulted two Copperbelt University lecturers, Edward Nkonde and Ephraim Munshimfw, before releasing them the next day. Police allegedly mistook them for thieves when the lecturers visited the area on a field research trip.

On July 14, a 27-year-old woman gave birth to a baby boy at Kasama police station after police detained her for alleged child abuse. The woman claimed that a police officer denied her bond and that another female detainee assisted her with delivering the baby. On July 21, Police Inspector General Francis Kabonde ordered the officer arrested for unprofessional conduct. Police arrested the officer and charged her with negligence of duty. The case remained pending at year's end.

On July 27, a police officer shot and wounded Copperbelt University student Cornelius Mwape as Kitwe police tried to quell student demonstrations. On July 28, President Banda expressed disappointment that the police had used live ammunition to quell the protests and ordered a police review of the incident. No action was taken by year's end against the officer who allegedly wounded Mwape.

There were no new developments, and none were expected, in the July 2008 alleged police abuse of Monde Naluli. There were no new developments, and none were expected, in the 2007 case of prisoners allegedly stripped and beaten by guards at Mufulira State Prison.

There were instances of mob violence reported during the year. On August 12, Copperbelt University students reportedly beat Konde Mamadi and destroyed his vehicle for his allegedly having stolen a laptop computer. Mamadi's case remained pending at year's end.

According to human rights groups, police occasionally demanded sex from female detainees as a condition for their release. There also were reports that police officers raped women and young girls while they were in custody. There were no new developments, and none were expected, in the following 2007 cases: the alleged rape of a 14-year-old girl on numerous occasions by police officer Sitali Ikowa and the arrest of a police officer for raping a suspect at Nkana East Police Station.

Prison and Detention Center Conditions.—Prison conditions were poor and life threatening. An inefficient judiciary delayed court proceedings and exacerbated overcrowding. The country's prisons, which were built to hold 5,500 inmates, held nearly 15,000 prisoners and detainees. For example, Lusaka Central Prison, which was designed to accommodate 200 prisoners, held more than 1,500. Poor sanitation, dilapidated infrastructure, inadequate and deficient medical facilities, meager food supplies, and lack of potable water resulted in serious outbreaks of dysentery, cholera, and tuberculosis, which the overcrowding exacerbated.

Prisoners routinely complained that authorities denied them access to medical care as provided for by law. Failure to remove or quarantine sick inmates and the lack of infirmaries at many prisons resulted in the spread of airborne illnesses such as tuberculosis, leading to the reinfection and death of prisoners. Drugs to combat tuberculosis were available, but the supply was erratic. Many prisoners were malnourished because they received only one serving of cornmeal and beans per day, called a "combined meal" because it represented breakfast, lunch, and dinner.

The HRC estimated that the HIV/AIDS prevalence rate in prisons in 2008 was 27 percent. Antiretroviral treatment was available to some prisoners with HIV/AIDS; however, poor nutrition often rendered the treatment ineffective.

Juveniles often were not held separately from adults. Incarcerated women who had no alternative for child care could choose to have their infants and young children with them in prison until the children reached the age of four. Pretrial detainees were not held separately from convicted prisoners.

The government permitted prison visits by both domestic and international NGOs and by resident foreign diplomats during the year. The International Committee of the Red Cross (ICRC), provincial human rights committees, and the LRF periodi-

cally inspected prisons during the year. ICRC visits were performed in accordance with standard modalities.

In January the HRC Children's Rights Committee visited three reformatory centers and documented violations of children's rights in those centers. According to the committee's report released during the year, reformatory centers recorded cases of child abuse in the form of corporal punishment.

In August HRC chairperson Pixie Yangailo visited Kasama Central Police Station and described conditions at the station as "pathetic." She noted that suspects were forced to sleep on the floor without blankets.

The HRC recommended in its 2009 report that prisons be rehabilitated to meet acceptable humane and sanitary standards and that prisoners be separated by age and gender. The government had not responded to these recommendations by year's end.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention; however, the government did not respect these prohibitions.

Role of the Police and Security Apparatus.—The Zambian Police Service (ZPS), divided into regular and paramilitary units under the Ministry of Home Affairs, has primary responsibility for maintaining law and order. The Zambia Security Intelligence Service (ZSIS), under the Office of the President, is responsible for intelligence and internal security. The Central Police Command in Lusaka oversees nine provincial police divisions with jurisdiction over police stations in towns country-wide. Although the government identified a need for 27,000 police officers and hired 1,500 new officers during the year for the first time in several years, only 16,500 police were on duty at year's end. The HRC recommended in its 2009 report that the police increase its budget, enhance logistical support, improve working conditions for police officers, and implement human rights training as well as punitive and preventative measures to curb police misconduct. The government had not responded to these recommendations by year's end.

The approximately 21,600-strong military, divided into the army, air force, and national service, have primary responsibility for defending sovereignty and territorial integrity and cooperating with the appropriate civilian authority in times of emergencies and natural disasters. The defense forces have domestic security responsibility only in cases of national emergency. By law the vice president declares a national emergency in cases of natural disasters, and the president declares a national emergency in a state of war, insurrection, hostilities, or public emergency. Each service has a commander who reports to the minister of defense. Paramilitary units of the ZPS, customs officers, and border patrol personnel conduct patrols on lakes and rivers.

The Drug Enforcement Commission (DEC) is responsible for enforcing the laws on illegal drugs, fraud, and money laundering and employs approximately 300 agents to oversee drug enforcement and interdiction.

Lack of professionalism, investigatory skills, and discipline in the security forces remained serious problems. Low salaries and substandard government housing exacerbated police corruption, as did poor working conditions. Police released prisoners for bribes, extorted money from victims, and required "document processing fees" or "gas money" to commence investigations. Police enjoyed a high degree of impunity.

In an effort to address these issues, the Police Public Complaints Authority (PPCA) met during the year to review complaints regarding police conduct that were not resolved through internal police channels. The PPCA reported that between January and November it received 245 complaints regarding police misconduct; 32 were related to unlawful detention, 72 to unprofessional conduct, 25 to police brutality, 48 to police inaction, 56 to abuse of authority, and four to death in police custody. In 27 of the 245 cases, the perpetrator was punished or a settlement was mediated. The PPCA recommended and imposed punishments that included fines, demotion in rank, and dismissal. Many cases of abuse went unreported due to citizen ignorance of the PPCA and fear of retribution.

Many complainants dropped their cases after involved police officers intimidated complainants or offered compensation to avoid a formal PPCA investigation, according to the PPCA.

Security forces failed to prevent limited societal violence during by-elections (see section 3).

Arrest Procedures and Treatment While in Detention.—The constitution and law provide that authorities must obtain a warrant before arresting a person for some offenses; other offenses have no such requirement. For example, police are not required to obtain a warrant when they suspect that a person has committed offenses

such as treason, sedition, defamation of the president, unlawful assembly, or abuse of office. In practice police rarely obtained warrants before making arrests.

According to the law, suspects being arrested must be informed of their rights, including the immediate right to an attorney. The law provides that persons arrested must appear before a court within 24 hours of their arrest; however, detainees were frequently held for much longer periods because prosecutors routinely required that officers collect additional evidence before presenting cases to a magistrate. The law provides for prompt judicial determination of the legality of charges against a detainee; however, authorities often did not inform detainees promptly of charges against them.

There was a functioning bail system; however, prisons were overcrowded in part because indigent detainees and defendants did not have the means to post bail or were held for offenses for which bail is not granted, including treason, murder, aggravated robbery, and violations of narcotics laws. In practice police generally did not respect prisoners' right to apply for bail. The government's legal aid office, responsible for providing representation for indigent detainees and defendants in criminal or civil cases, assisted few arrestees.

Arbitrary arrest and detention remained problems. Police arbitrarily arrested family members of criminal suspects. Criminal suspects were arrested on the basis of insubstantial evidence, uncorroborated accusations, or as a pretext for extortion. Police officials disciplined some officers found engaging in extortion of prisoners, including suspensions and written reprimands, although dismissals for extortion were rare.

On July 13, Lusaka police briefly detained The Post news editor Chansa Kabwela for allegedly circulating obscene material (see section 2.b.).

Prolonged pretrial detention was a problem, and some defendants awaited trial for as long as three years. Approximately one-third of persons incarcerated in prisons had not been convicted of a crime or received a trial date. Broad rules of procedure give wide latitude to prosecutors and defense attorneys to request delays or adjournments. According to human rights groups, prison administrators routinely altered paperwork to make it appear as though prisoners had appeared before a magistrate when they had not, often because prison authorities had no fuel to transport prisoners to courts. Judicial inefficiency, lack of resources, and lack of trained personnel also contributed to prolonged pretrial detention.

For example, Siavonga resident Nobert Chisanga was convicted by the Siavonga Magistrate's Court and imprisoned in 2006 for defiling three girls. However, at year's end he still awaited final sentencing by the Lusaka High Court. Lusaka resident Over Mumba was convicted by the Lusaka Magistrate's Court and imprisoned in 2005 for heroin possession; at year's end he still awaited final sentencing by the Lusaka High Court. Zachaeus Sakala had been held in pretrial detention since 2002 without conviction. The HRC demanded in 2008 that the judiciary resolve his case.

There were no new developments, and none were expected, in the April 2008 case of alleged unlawful detention of Rachel Bwalya and the case of Ernest Banda, who had been in detention since 2005.

Amnesty.—On January 16, President Banda commuted the death sentences of 53 prisoners to custodial sentences or life imprisonment.

e. Denial of Fair Public Trial.—The constitution and law provide for an independent judiciary; however, the government did not consistently respect judicial independence, and the judicial system was hampered by inefficiency, corruption, and lack of resources. Government officials used their offices to circumvent standard police and judicial procedures. However, during the year the courts at times made judgments and rulings critical of the government. In several instances the courts awarded damages in cases of police and other security force abuse or unlawful arrest.

For example, on August 31, the Lusaka High Court awarded Patriotic Front (PF) party leader Michael Sata damages for malicious prosecution. In 2002 Sata was arrested and indicted for allegedly stealing two motor vehicles, but a magistrate exonerated him.

The nine-member Supreme Court in Lusaka has final appellate jurisdiction for all legal and constitutional disputes. The High Court, with branches based in Lusaka, Ndola, Kitwe, Livingstone, and Chipata, is second in jurisdiction to the Supreme Court and regularly held mobile court sessions in all nine provincial capitals. The High Court has primary jurisdiction over civil litigation and criminal matters relating to treason, murder, and aggravated robbery, and it has appellate authority in cases referred to it from lower courts. High Court decisions can be appealed to the Supreme Court. The High Court handles parliamentary election petitions; the Su-

preme Court has jurisdiction over presidential election disputes. One Supreme Court justice is chairperson of the Electoral Commission of Zambia.

The Justice Ministry oversees 75 lower magistrate courts countrywide that have original jurisdiction in some criminal and civil cases and limited appellate authority over matters referred to them from local courts. Local or customary courts heard most civil and petty criminal cases in rural areas.

The military forces have a separate court with jurisdiction over military cases. Accused military personnel may appear for summary trial before their commanding officers or be referred for trial by a court-martial. A court-martial sentence can be appealed to the Supreme Court. Military courts cannot try civilians and generally provided the same rights as civil criminal courts. The ZPS uses police tribunals to resolve internal police matters. Police tribunals try cases of police misconduct. However, they cannot try civilians or criminal cases involving police officers and generally provided the same rights as civil criminal courts.

The constitution permits judges to serve on the Supreme and High Court up to age 65. The president, in consultation with the Judicial Service Commission, may permit a judge at age 65 to continue in his office. The president, in consultation with the commission, may also appoint a judge to the Supreme or High Court for a period of up to seven years.

On September 17, the Lusaka High Court dismissed a petition by Lusaka businessmen Faustin Kabwe and Aaron Chungu to order Supreme Court Chief Justice Ernest Sakala and Justice Peter Chitengi to vacate their offices because they had passed the constitutionally mandated retirement age of 65. Kabwe and Chungu, who were convicted August 17 in a corruption case brought against them and former president Frederick Chiluba, had submitted their petition following a June 9 Supreme Court decision to allow their corruption cases to proceed (see section 4).

There were 150 magistrates at the end of the year. Attorneys who had a law degree held approximately 41 magistrate positions during the year; lay magistrates filled the rest. However, poor working conditions caused many magistrates to leave their jobs. The HRC recommended in its 2009 report that the government increase the number of magistrates and magistrate courts, improve accused persons' access to bail, and reduce abuses of judicial authority. The government had not responded to these recommendations by year's end.

Trial Procedures.—Defendants are considered innocent until proven guilty, and trials in the High Court as well as in magistrate and local courts are public. Juries are not used; a magistrate renders judicial decisions and determines sentences. Although trials are open to the public, the public is not permitted to comment on an ongoing case. Defendants have the right to be present and to consult with an attorney; however, many defendants lacked the resources to retain a lawyer. The law provides for free legal counsel when indigent defendants face serious charges; however, public defenders were overwhelmed with cases, and many defendants did not have legal representation. Defendants can confront or question witnesses against them and present evidence and witnesses on their behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants have the right to appeal.

Although statutory (common) law extends these rights to all citizens, the 1964 Local Courts Act permits local courts to employ customary (tribal or traditional) laws that vary widely throughout the country. Statutory law takes precedence over customary law, and any citizen may bring a case to magistrate court. However, the government encourages the use of customary law by local courts to augment the justice system and resolve disputes in rural areas. Lawyers are barred from participating in proceedings in courts that apply customary law, and there are few formal rules of procedure. Local court justices frequently do not have legal training but are expected to be versed in the traditions and customs of the ethnic group the court represents. Local courts cannot sentence convicted persons to imprisonment; they impose fines as punishment.

Courts were congested, and there were significant delays in trials while the accused remained in custody. In cases in which the magistrate's court did not have jurisdiction, at least six months elapsed before a magistrate committed the defendant to the High Court for trial. Following committal, preparation of the magistrate court record for transmittal to the High Court took months, or in some cases, as long as a year. Once a case reached the High Court for trial, court proceedings lasted an average of six months.

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

Civil Judicial Procedures and Remedies.—There is an independent and impartial judiciary in civil matters, and complainants have access to the High Court to seek

damages for human rights abuses. There are administrative remedies available as well as judicial remedies for alleged wrongs. However, there were problems enforcing civil court orders due to insufficient judicial resources.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and law prohibit such actions; however, the government frequently did not respect these prohibitions in practice. The law requires a search or arrest warrant before police may enter a home, except during a state of emergency. Police routinely ignored this requirement and arrested suspected criminals at their homes without an arrest warrant.

The law grants the DEC and the ZSIS authority to monitor communications using wiretaps based on probable cause.

Authorities sometimes detained, interrogated, and physically abused family members of criminal suspects to obtain their cooperation in identifying or locating suspects.

In January the Lusaka High Court ordered the DEC to pay Christine Luunga of Mwenda-Lice 12 million kwacha (\$2,400) for unlawful imprisonment. The court found that DEC agents illegally arrested and detained her at Kabwata Police Station in Lusaka after failing to arrest her husband, Levy Hamalala, for allegedly cultivating marijuana. Agents released Luunga after Hamalala turned himself in to Lusaka police.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution and law provide for freedom of speech and of the press; however, the government restricted these rights in practice. The law includes provisions that may be interpreted broadly to restrict these freedoms.

The government allowed but sometimes attempted to impede individuals' right to exercise public or private spoken criticism by using intimidation; for example, it thwarted a car honk-and-whistle campaign by arresting nine individuals for disturbing the peace (see section 2.b.). The government allowed press criticism but sometimes attempted to impede it using intimidation.

The government-controlled Times of Zambia and Zambia Daily Mail were two of the most widely circulated newspapers. The government exercised considerable influence over both newspapers, including reviewing articles prior to publication and censoring individuals responsible for published articles that criticized the government. Opposition political parties and civil society groups complained that government control of the two newspapers limited their access to mass communication. Journalists in the government-controlled media generally practiced self-censorship.

The international media generally operated freely.

The independent media were active and expressed a wide variety of views. A number of privately owned newspapers questioned government actions and policies, and although these circulated without government interference, officials used the law to suppress criticism of political or other leaders. Government officials and ruling MMD supporters repeatedly targeted the leading independent newspaper, The Post, with criticisms, threats, and litigation for publishing information critical of the government.

The law permits presidential investigative tribunals to call as witnesses journalists and media managers who print allegations of parliamentary misconduct. Failure to cooperate with a tribunal can result in charges of contempt, which are punishable by up to six months in prison. The media criticized these provisions as clear infringements of freedom of the press and claimed it was a means for parliamentarians, some of whom concurrently served the president in cabinet positions, to bypass the court system.

Ruling party supporters harassed independent journalists. On February 28, MMD supporters assaulted Thomas Nsama, a photojournalist at The Post, at Chipata Airport while he covered President Banda welcoming South African President Zuma. No charges were filed. On May 2, MMD supporters assaulted The Post journalists George Chellah and Eddie Mwanaleza at Lusaka City Airport while they covered the return of President Banda. No charges were filed against those involved in the assault. On May 17, Minister of Information and Broadcasting Ronnie Shikapwasha defended the harassment of The Post journalists by saying that "they were reaping what they sowed." He claimed that the criticism of the president was unjustified and accused the newspaper of "promoting discontent in the country." On July 29, MMD Lusaka Province Youth Chairman Chris Chalwe assaulted The Post journalist Chibaula Silwamba and Times of Zambia reporter Anthony Mulowa as they covered President Banda's arrival at Lusaka International Airport. On August 6, the Lusaka Magistrate's Court released Chalwe on bail. His case remained pending at year's end. On August 7, Shikapwasha justified violence against journalists by MMD sup-

porters, saying “President Banda’s supporters demand that the president be given due respect by The Post.” Shikapwasha warned that “unless the media operated within the set confines of their profession,” the public would be forced to call for a statutory body to regulate the media.

On July 13, police arrested The Post news editor Chansa Kabwela and charged her with circulating obscene material. Kabwela received photos of a woman giving birth on the sidewalk outside a hospital shuttered due to a healthcare workers’ strike, and later Kabwela sent the unpublished photos to government, women’s groups, and church leaders to raise awareness of hospital conditions during the strike. On November 16, Lusaka Chief Magistrate Charles Kafunda acquitted Kabwela. On July 28, Vice President Kunda dismissed chairperson Tamala Kambikambi and spokesperson Amos Chanda from the National Governing Council of the African Peer Review Mechanism, a voluntary organization that assesses countries’ adherence to international and African human rights standards, for publicly supporting Kabwela.

On September 2, Lusaka Chief Magistrate Charles Kafunda found The Post deputy editor Sam Mujuda guilty of contempt of court and issued an arrest warrant for Post editor Fred M’embe for publishing an editorial written by Cornell University law professor Muna Ndulo that criticized the Kabwela case. On September 25, Lusaka High Court Judge Albert Wood overturned Kafunda’s ruling. On October 14, prosecutors submitted the case to a different magistrate, David Simusamba. On November 18, Simusamba ordered M’embe’s case reinstated, and his trial began on December 4. At year’s end the trial continued.

There were no new developments, and none were expected, in Deputy Secretary to the Cabinet Robert Mataka’s 2007 defamation suit against the *Zambian Watchdog* newspaper.

In addition to a government-controlled radio station, there were numerous private radio stations. The government-owned Zambia National Broadcasting Corporation (ZNBC) was the principal local-content television station. Several private television stations, including foreign-owned media, also broadcast locally. The government detained and censured individuals responsible for programs the government deemed offensive. Opposition political parties and civil society groups charged that government control of the ZNBC limited their access to mass communication.

On July 27, Minister of Information and Broadcasting Shikapwasha threatened to close the Sky FM radio station in Monze for broadcasting “unpalatable remarks” from a radio listener criticizing President Banda and the visiting King Mswati III of Swaziland.

On September 5, Minister Shikapwasha warned television and radio stations in a press statement that they risked having their licenses revoked if they broadcasted material outside the parameters of the provisions of their licenses. Shikapwasha further indicated that the government would investigate reports that television station MUVI TV and some private radio stations circumvented the provisions of their broadcasting licenses by using digital satellite technology to broadcast countrywide. On October 11, Shikapwasha accused The Post of encouraging individuals to participate in live call-in programs on Sky FM radio.

There were no developments, and none were expected, in the investigation of Cabinet Protocol Officer Lovewell Jere’s 2007 barring of local journalists from covering the Southern African Development Community Summit.

Internet Freedom.—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Although the Internet was available to and used by citizens, a lack of infrastructure limited public access. According to International Telecommunication Union statistics for 2008, approximately 5.5 percent of the country’s inhabitants used the Internet.

During the year the government revoked the visa of a foreign national living in Zambia who criticized a deputy minister on her blog. The government threatened to deport another foreign national who posted remarks on the Internet deemed critical of the government.

Academic Freedom and Cultural Events.—There were no government restrictions on academic freedom or cultural events. Although the law gives university councils at the three public universities a mandate to address faculty concerns, the minister of education may appoint council members. Some academics criticized this provision as an infringement of academic freedom.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The constitution and law provide for freedom of assembly; however, the government restricted this right in practice. Although the law does not require a permit to hold

a rally, it requires organizers to notify police seven days in advance. Police are empowered to decide when and where rallies are held and who may address participants. The government on occasion used the law's broad mandate to arbitrarily change the time and date of rallies, particularly of opposition political parties and NGOs, and did so during by-election campaigns during the year.

Unlike in previous years, there were no cases of police using violence to break up protests.

On October 2, police arrested nine individuals, including PF members of parliament (MPs) Mumbi Phiri and Jean Kapata, in Lusaka for protesting the acquittal of former president Frederick Chiluba with car honks and whistles (see sections 2.a and 4). They were released on October 7.

There were no developments in the May 2008 police shooting of two University of Zambia students in Lusaka.

Freedom of Association.—The law provides for freedom of association, but the government placed some limits on this right. All organizations must formally apply for registration to the Ministry of Home Affairs' Registrar of Societies. However, the registration process was long and permitted considerable discretion on the part of the registrar. During the year there were no cases in which the registrar refused to register an organization, although it deregistered the Islamic Council of Zambia and threatened to deregister organizations that had not paid fees or were otherwise not in compliance with the law (see section 2.c.). On August 26, the government enacted the NGO Law regulating NGOs operating in the country (see section 5).

c. Freedom of Religion.—The constitution and law provide for freedom of religion, and the government generally respected this right in practice. Although the constitution declares the country to be a Christian nation, the government generally respected the right of all religious groups to worship freely.

On October 4, the registrar of societies deregistered the Islamic Council of Zambia for violating the constitution and infighting between members related to accusations by one faction of financial improprieties.

The government required the registration of religious groups and approved all applications for registration from religious groups without discrimination.

Societal Abuses and Discrimination.—There were approximately 80 persons in the Jewish community and no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. However, the government intermittently limited in-country movement. Police used roadblocks to control criminal activity, enforce customs and immigration regulations, check drivers' documents, and inspect vehicles for safety compliance. Police sometimes extorted money and goods from motorists at these roadblocks.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, and other persons of concern.

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

Protection of Refugees.—The country is a party to the 1951 Convention relating to the Status of Refugees, the 1967 Protocol relating to the Status of Refugees, and the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. The law provides for asylum based on these conventions and protocol.

The law provides for the granting of asylum or refugee status, and the government has established a system for providing some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government also provided temporary protection to individuals who may not qualify as refugees. There were reports during the year that the government expelled Zimbabweans and other foreign nationals who could not provide evidence that they were refugees and were therefore considered migrants.

According to the UNHCR, at year's end the country hosted 64,000 refugees, mainly from Angola and the Democratic Republic of Congo. During the year the government assisted in the repatriation of 16,000 Congolese refugees. Refugees were provided access to basic services, education, and police and courts. Government policy limited refugees' legal employment options to refugee camps, except where refugees obtained specific government authorization for employment outside camps.

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

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

Elections and Political Participation.—In October 2008 then-vice president Rupiah Banda was elected president in a generally free and fair by-election conducted following the August 2008 death of then-president Levy Mwanawasa. After Banda defeated lead opposition candidate and PF leader Michael Sata by 35,209 votes, Sata petitioned the Supreme Court to request a recount. On March 11, the court ruled against Sata's petition and affirmed Banda's election on April 27. In its ruling, the Supreme Court dismissed Sata's allegations of election irregularities, stating that Sata submitted insufficient evidence of anomalies in the counting, compilation, and transmission of election results.

The constitution requires all elected officials except the president and vice president to vacate their offices one month prior to running for election. The vice president is appointed and dismissed by the president. During the year several by-elections were held after incumbent deaths or resignations. Reports of vote buying and misappropriation of government resources for unfair political advantage continued and in some cases were challenged in court.

On August 13, MMD candidate Solomon Musonda was elected the MP representing Chitambo. Reportedly, violence occurred during an altercation between Deputy Minister Gaston Sichilima from the Office of the Vice President and a United National Independence Party supporter. Some observers alleged that ruling party supporters engaged in vote buying, misused government vehicles, distributed food and clothing for partisan purposes, and promised local development projects to entice voters to the polls.

On October 15, PF candidate Geoffrey Bwalya Mwamba was elected the MP representing Kasama Central following the resignation of the incumbent MP from the PF to form his own political party. On October 14, violence reportedly occurred during an altercation between MMD and PF supporters. As in the Chitambo by-election, some observers alleged that MMD supporters engaged in vote buying and misuse of government resources for partisan purposes. On October 14, opposition supporters chased Minister of Commerce, Trade, and Industry Felix Mutati and Minister of Health Kapembwa Simbao from a Kasama market where they were allegedly engaging in vote buying.

On November 19, United Party for National Development (UPND) candidate Watson Lumba was elected the MP representing Solwezi Central following the September 5 death of incumbent MP and Minister of Housing Ben Tetamashimba. Violence occurred during reported altercations between MMD and UPND supporters. As in other by-elections during the year, some observers alleged that ruling party supporters engaged in vote buying and similar abuses for partisan purposes.

Political parties could operate without restriction or outside interference, and individuals could independently run for election. However, the ruling MMD exerted considerable political influence over the electoral process by using government resources to conduct political campaigns.

There were 21 women in 158-seat parliament, three in the 27-member cabinet, and three on the Supreme Court. There was one minority MP; there were no minorities serving in the cabinet or on the Supreme Court. There were no female or minority provincial ministers. Political parties did not allocate parliamentary seats to minorities or women.

The National Constitutional Conference (NCC) continued to meet throughout the year to consider the draft constitution proposed by the 2005 Mung'omba Constitutional Review Commission. Some civil society groups, including large umbrella organizations representing women's and church groups, maintained their boycott of the NCC in protest of what they perceived as disproportionate government and ruling party representation. On September 7, President Banda extended the NCC's mandate through April 2010.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government attempted to implement the law; however, some officials engaged in corrupt practices with impunity. Petty corruption among the police and other public authorities was particularly problematic.

The World Bank's latest worldwide governance indicators reflected that corruption was a serious problem; however, the government made some improvements in fighting it. On August 27, the government announced its National Anti-Corruption Policy. The Anti-Corruption Commission (ACC), which reports independently to the

president, is responsible for combating government corruption. On October 30, Vice President Kunda disbanded the Task Force for Corruption (TFC), which prosecuted cases of corruption committed during then-president Chiluba's administration, and assigned its duties to the ACC. The disbandment drew criticism from some civil society representatives as a sign that the government would not prosecute Chiluba-era corruption cases. The government continued its collaboration with the international community to improve its capacity to investigate and prevent corruption. Parliamentary committees sustained their scrutiny of executive branch operations, and the ACC continued its prosecution and public educational activities. During the year the ACC received 2,073 reports of corruption, 658 of which were investigated. Of those, 17 resulted in convictions. The ACC maintained a toll-free hotline for reports of corrupt practices.

There remained a widespread public perception that corruption was pervasive in almost all government institutions. Controls over government funds and property were often weak, investigative units often lacked authority and personnel, and officials dealing with the public frequently demanded illicit payments with impunity. Additionally, the government had no clear policy for the disposal of confiscated assets, and the process to liquidate assets seized in the anticorruption campaign was not transparent. Public officials were not subject to financial disclosure laws, although presidential candidates were required to disclose financial assets when filing their candidacies with the Supreme Court.

During the year the ACC and TFC prosecuted several military commanders and government officials for corruption.

On January 12, a judge convicted former air force commander lieutenant general Christopher Singogo of embezzlement and abuse of authority and sentenced him to six years' imprisonment with hard labor. Singogo was convicted on a second abuse of authority charge on February 26 and sentenced to an additional five years' imprisonment with hard labor. Both cases remained on appeal at year's end.

On February 14, a judge convicted former minister of lands Gladys Nyirongo of corrupt practices and abuse of authority and sentenced her to four years' imprisonment with hard labor. The case remained on appeal at year's end.

On March 2, a judge convicted former army commander lieutenant general Georjago Musengule of 12 counts of corruption and abuse of authority and sentenced him to 16 years' imprisonment with hard labor. Musengule's accomplice, Base Chemicals Zambia Limited chief executive officer Amon Sibande, was convicted in the same case and sentenced to three years' imprisonment. The case remained on appeal at year's end.

On March 3, a judge convicted former president Chiluba's wife Regina of theft and sentenced her to three-and-a-half years' imprisonment in a case stemming from items she illegally received from her husband while he served as president. Her appeal remained pending, and she remained free on bail.

On March 3, a judge convicted former air force commander lieutenant general Sande Kayumba of corruption and sentenced him to seven years' imprisonment with hard labor. His accomplices, former air force chief of logistics brigadier general Andrew Nyirongo and base executive Amon Sibande, were also convicted of corruption in the same case and sentenced to seven years' imprisonment with hard labor. On May 4, Kayumba was also convicted of abuse of authority and sentenced to two years' imprisonment with hard labor.

On May 13, the ACC announced that it was investigating allegations of embezzlement of more than 35.7 billion kwacha (\$7.14 million) at the Ministry of Health by 32 ministry officials. The case remained pending at year's end.

On August 17, Magistrate Jones Chinyama acquitted former president Chiluba of embezzling 2.5 billion kwacha (\$500,000) in public funds. At the same hearing the magistrate convicted two Chiluba accomplices, Faustin Kabwe and Aaron Chungu, of embezzlement in the same case and sentenced them to five years in prison. On August 24, TFC Director Max Nkole appealed the Chiluba case to the High Court. On August 25, President Banda dismissed Nkole and named ACC Chairperson Godfrey Kayukwa acting TFC director, and Director of Public Prosecutions Chalwe Mchenga withdrew Nkole's appeal. On August 19, Chiluba appealed for an unprecedented reinstatement of his political immunity. On September 23, Vice President Kunda asserted that the government would not appeal Chiluba's acquittal.

As of year's end the attorney general had not registered in the Zambian courts a British court's 2007 finding that Chiluba, his wife Regina, and several accomplices' misappropriated 164 trillion kwacha (\$32.8 million) in public funds.

The law does not provide for public access to government information; however, the government provided information to media and other interested parties, including foreign media, on an ad hoc basis. Information related to defense and security forces was withheld from the public for reasons of national security.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

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

Major local, independent human rights NGOs included the LRF, Jesuit Centre for Theological Reflection, Women for Change, NGO Coordinating Council, Civil Society for Poverty Reduction, and Southern Africa Center for Constructive Resolution of Disputes.

On August 26, the government enacted a law to regulate NGOs. Many NGOs expressed concern that government officials would use the new law to punish or disband NGOs for publicly expressing critical views on human rights and governance issues. NGOs claimed that the bill would force NGOs to focus on the government's development priorities at the expense of their own objectives and that the government-controlled NGO Registration Board created by the law would exert political pressure on NGOs. At year's end the government had not implemented the law, and there had been no cases where the law had directly restricted NGO operations.

The government generally cooperated with local human rights observers and international human rights and humanitarian NGOs. The government cooperated with international governmental organizations and permitted visits by UN representatives, the ICRC, and other organizations.

The HRC monitored human rights conditions, interceded on behalf of persons whose rights it believed were denied by the government, and spoke on behalf of detainees and prisoners. The HRC oversees local human rights committees in all nine provincial capitals and nominally enjoyed the government's cooperation without substantial political interference. However, independent human rights groups noted that the HRC was understaffed, underfinanced, and relied on the police to enforce its recommendations.

The HRC noted in its 2009 report abuses by the judiciary and the police and called on the government to implement reforms, including further criminalizing human rights violations.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law prohibit discrimination based on race, ethnic group (tribe), gender, place of origin, marital status, political opinion, color, disability, language, social status, or creed. However, the government did not effectively enforce the law, and violence and discrimination against women and persons with disabilities remained problems.

Women.—The law prohibits rape, and courts have discretion to sentence convicted rapists to life imprisonment with hard labor. However, rape was widespread. The government did not enforce the law effectively and obtained few rape convictions. In 2008 the ZPS's Victim Support Unit (VSU) recorded 229 cases of rape, 34 cases of attempted rape, and 141 cases of indecent assault; 72 defendants were convicted, four were acquitted, and three cases were withdrawn. The law does not specifically prohibit spousal rape, and penal code provisions that criminalize rape cannot be used to prosecute cases of spousal rape.

Domestic violence against women was a serious problem, and wife beating was widespread. There is no specific law against domestic violence, including spousal abuse, and cases of domestic violence were prosecuted under the penal code's general assault provisions. Penalties for sexual assault range from two to 25 years in prison, depending on the severity of injury and whether a weapon was used during the assault. The VSU was responsible for handling cases of domestic assault, wife beating, mistreatment of widows, and property expropriation (grabbing) by the deceased husband's relatives. In practice the police were often reluctant to pursue reports of domestic violence and preferred to encourage reconciliation.

The government and NGOs expressed continued concern about violence against women. Fear of retribution and cultural considerations deterred women from reporting domestic violence cases, and the VSU stated in a June report that this meant the true extent of sexual and gender-based violence was unclear; however, increased public awareness resulted in more reporting of such incidents to police and other authorities than in previous years. The VSU reported that victims often refused to cooperate and that the unit lacked equipment to analyze forensic evidence. The government operated gender-based violence shelters, a toll-free hotline, and six one-stop centers to provide comprehensive assistance to victims of sexual and gender-based violence. During the year the government provided gender-based violence training to more than 120 police officers.

Although prostitution is not illegal, the penal code criminalizes certain conduct associated with prostitution. Police routinely arrested street prostitutes for loitering. Prostitution was prevalent in major cities. Sex tourism occurred but was not prevalent.

Sexual harassment was common. The law prohibits sexual harassment in the workplace, and the government has successfully prosecuted persons for such actions. The government has also successfully prosecuted persons for other forms of harassment under other sections of the penal code.

Although couples and individuals enjoyed the right to decide freely and responsibly the number, spacing, and timing of their children, they often lacked access to information, and that lack effectively led to discrimination against women in the exercise of reproductive rights. Many women lacked access to contraception and skilled attendance during childbirth, including essential obstetric and postpartum care. Women generally did not experience discrimination in terms of diagnosis and treatment for sexually transmitted infections. The number of women who received HIV testing and treatment increased substantially in recent years, and many more women than men sought treatment.

The law generally entitles women to equality with men. However, the government did not adequately enforce the law, and women in practice experienced discrimination in employment, education, and land and property ownership. Women who were employed often suffered from discriminatory conditions of service, including pay inequity. Although the Ministry of Lands set aside special land quotas for women to redress the imbalance in property ownership, women lacked adequate access to credit to purchase land or property. In most cases women remained dependent on their husbands or male members of their family to cosign for loans. As a result few women owned their own homes or businesses, although some financial institutions allowed women to sign independently for loans. The government was proactive in improving the status of women through legal protections and public awareness campaigns. The Gender in Development Division in the cabinet office is the government's agency especially charged with promoting the status of women.

Local customary law generally discriminates against women. Despite constitutional and legal protections, customary law subordinates women with respect to property ownership, inheritance, and marriage. Polygamy is legally permitted under customary law if the first wife agrees to it at the time of her wedding or both families agree and the man has paid a dowry. The practice of "sexual cleansing," in which a widow is compelled to have sexual relations with her late husband's relatives as part of a cleansing ritual, continued as a practice under customary law. However, many local leaders banned the practice. The penal code prohibits "sexual cleansing" of children under the age of 16.

Customary law dictates that rights to inherit property rest with the deceased man's family. Statutory law prescribes that the man's children equally share half of an estate, the widow 20 percent, the man's parents 20 percent, and other relatives 10 percent. The widow's share must be divided proportionally with other women who can prove a spousal relationship with the deceased man. As a result property grabbing from widows remained widespread. The courts generally consider property grabbing a criminal offense and mandate up to three years' imprisonment in these cases. However, most property grabbing cases were decided in local courts, and the fines they handed down were low.

Children.—The Ministries of Labor and Social Security (MLSS), Sport, Youth, and Child Development (MSYCD), Community Development and Social Services (MCDSS), and Education shared responsibility for promoting children's welfare. However, scarce resources and ineffective implementation of social programs continued to hinder their ability to assist children.

Citizenship is derived by birth within the country's territory or from one's parents. The government's failure to register births did not result in the denial of public services, such as education or health care, to children. The ICRC indicated in 2002 that fewer than 10 percent of births in the country were registered.

Although government policy calls for free basic education through grade seven, education was not compulsory, and many children did not attend school. Contrary to government policy, many teachers and school administrators required students to purchase uniforms or pay a fee before allowing them to attend classes, preventing some children from attending school. The numbers of girls and boys in primary school were approximately equal; however, fewer girls attended secondary school. Sexual abuse by teachers discouraged many girls from attending classes.

Although the law prohibits sexual harassment of children, child abuse and violence against children were common problems. Defilement, which the law defines as the "unlawful and carnal knowledge of a child under the age of 16," was particularly

common. The police VSU recorded 1,224 defilement cases in 2008; prosecutions resulted in 150 convictions and seven acquittals.

Child marriage was a minor problem and was not common. Although a person must be at least 16 years old to marry under the formal law, there is no minimum age under customary law. Some local leaders spoke against child marriage and took steps to discourage it; however, most condoned the practice. Magistrates' courts intervened in cases of gross abuse.

The law criminalizes child prostitution and child pornography with penalties of up to life imprisonment. However, the law was not enforced effectively, and child prostitution was common. The country has a statutory rape law that provides penalties of up to life imprisonment in rape cases. The minimum age for consensual sex is 16 years.

There are a large number of displaced and institutionalized children. Approximately 1.2 million children under the age of 15 were orphaned, including an estimated 800,000 as a result of HIV/AIDS. These children faced greater risks of child abuse, sexual abuse, and child labor. Approximately 75 percent of all households cared for at least one orphan, and orphaned children headed an estimated 7 percent of households.

An estimated 20,000 to 30,000 children lived on the streets, often begging or prostituting themselves to survive. The MCDSS' Child Protection Unit (CPU) worked with the police to identify and assist street children. The MCDSS District Street Children Committee authorized the CPU to place children, including orphans and neglected children, in government- and NGO-operated shelters. In 2007 the CPU reintegrated 346 street children with their families, sent 234 children to school, and placed 185 in shelters. The MCDSS also maintained a cash transfer scheme to target vulnerable families who might otherwise send minors into the streets to beg or work. In 2007 the transfer program benefited 7,476 households. The MSYCD continued its efforts to rehabilitate street children by providing education and skills training at two converted national service camps for up to 200 girls in Kitwe and for 400 boys in Chipata. After graduating from the camps, the children are placed in youth resource centers throughout the country, where they receive training in carpentry, tailoring, farming, and other trades.

Trafficking in Persons.—The law prohibits trafficking in persons for all purposes, including transporting, receiving, and harboring of trafficking victims. However, the country was a source, transit point, and destination for trafficked persons, and internal trafficking occurred. Victims, principally women and children from rural areas, were trafficked within the country and to other parts of Africa and to Europe, and the country was used as a transit point for regional trafficking.

The government did not collect or maintain data on the extent or nature of trafficking; however, trafficking, particularly in the form of child prostitution, was believed significant. A 2007 International Labor Organization (ILO) study on child trafficking in the country concluded that trafficking was predominantly domestic and informal. The ILO noted that children were often trafficked as a source of cheap labor and that girls were more at risk of being trafficked than boys.

The ILO indicated that traffickers frequently included parents, other relatives, truck drivers, businesspersons, traders, and religious leaders. Traffickers often used false promises of employment to entice victims to leave their homes and families and then forced them into prostitution or domestic service.

The law provides for penalties of 25 years' to life imprisonment for those convicted of human trafficking. Law enforcement and immigration officers had varying levels of knowledge about trafficking, a problem exacerbated by the challenge of monitoring extensive and extremely porous borders. The government assisted with international investigations or extradited citizens who were accused of trafficking in other countries. The government investigated one case of trafficking and convicted one trafficker in 2008.

Through its social welfare agencies, the government provided counseling, shelter, and protection to victims of child prostitution or referred victims to NGOs that provided such services. In some cases victims were placed in protective custody at rehabilitation centers or victim support shelters operated by NGOs.

The government did not knowingly detain, jail, deport, or prosecute victims for violations of other laws. When trafficking investigations substantiated allegations, the government encouraged victims to assist with investigation and prosecution. The government did not have its own means of protecting victims and witnesses; however, it arranged for protective custody and security protection through facilities operated by NGOs.

The government did not have programs that specifically targeted trafficking, although law enforcement officers attended training courses that raised awareness of the problem. A government interagency committee on human trafficking, chaired by

the Ministry of Home Affairs, met during the year to promote coordination and information sharing among agencies. Government agencies responsible for combating trafficking included the police, immigration authorities, and the Ministries of Justice, Labor and Social Services, and Education.

The State Department's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The law prohibits discrimination in general, but there is no law that specifically prohibits discrimination against persons with physical or mental disabilities in employment, education, access to health care, or the provision of other state services or in other areas. Persons with disabilities faced significant societal discrimination in employment and education.

The MCDSS has responsibility for ensuring the welfare of persons with disabilities. Public buildings, schools, and hospitals rarely had facilities to accommodate persons with disabilities. The government did not mandate accessibility to public buildings and services for persons with disabilities. On September 19, The Post reported that conditions at the country's only mental health facility, Chainama Hills Mental Hospital, were generally good.

Indigenous People.—The country's seven major indigenous groups—Bemba, Kaonde, Lozi, Lunda, Luvale, Ngoni, and Tonga—are divided into 73 ethnic subgroups. Indigenous persons participated in decisions affecting their lands, cultures, traditions, and the exploitation of energy, minerals, timber, or other natural resources on indigenous lands. The government effectively protected their civil and political rights and any existing rights under the domestic law to share in revenue from the exploitation of natural resources on indigenous lands. The government generally permitted autonomy for indigenous people by encouraging the practice of local customary law. Some political parties maintained political and historical connections to indigenous groups and promoted their interests.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The law criminalizes homosexual behavior and provides penalties of up to 14 years' imprisonment for individuals who engage in homosexual acts. The government enforced the law that criminalizes homosexual conduct and did not respond to societal discrimination. Societal violence occurred based on sexual orientation, and societal discrimination based on sexual orientation occurred in employment, housing, or access to education or health care. There were no known cases of lesbian, gay, bisexual and transgender persons becoming stateless because of their sexual orientation. There were active groups promoting rights of such persons, but the Ministry of Home Affairs' Registrar of Societies continued to refuse to register them. Groups held social gatherings but did not participate in open demonstrations or marches.

Other Societal Abuses and Discrimination.—The government actively discouraged discrimination against persons with HIV/AIDS. However, there was strong societal and employment discrimination against such individuals. Government officials made announcements discouraging such discrimination but did not publicly acknowledge cases of HIV/AIDS among government officials. As a result the government made little headway in changing entrenched attitudes of discrimination and denial.

On October 5, the High Court agreed to hear a case in which two former air force officers, Stanley Kingaibe and Charles Chookole, had sued the air force for dismissing them because they were diagnosed HIV-positive. Kingaibe and Chookole alleged that the air force tested them for HIV in 2001 without their knowledge or consent and later dismissed them.

Individuals increasingly sought free access to HIV/AIDS counseling and testing, and more than 200,000 HIV patients were receiving antiretroviral treatment by year's end.

Section 7. Worker Rights

a. The Right of Association.—The law allows workers to form and belong to trade unions of their choice without previous authorization or excessive requirements, and workers exercised these rights in practice. Police officers and military personnel were not permitted to form unions. Approximately two-thirds of the country's 300,000 formal sector employees were unionized. The law allows unions to conduct their activities without interference, and the government generally protected this right in practice.

The Industrial and Labor Relations Act governs union activity. No organization can be registered unless it has at least 25 members, and with some exceptions, no trade union can be registered if it claims to represent a class of employees already represented by an existing trade union. Unions may be deregistered under certain

circumstances; however, the law provides for notice, reconsideration, and right of appeal to an industrial relations court.

The law provides for the right to strike, except for those engaged in a broadly defined range of essential services, but requires that all other legal recourse be exhausted first. Essential services not permitted to strike include the defense force, judiciary, police, prison service, and the ZSIS. The law further defines essential services as any activity relating to the generation, supply, or distribution of electricity; the supply and distribution of water and sewage removal; fire departments; and the mining sector. Because the process of exhausting other legal alternatives to striking was lengthy, most unions chose to strike illegally. The last legal strike in the country occurred in 1993. Workers who engaged in illegal strikes could be dismissed by their employers; the government at times intervened for political reasons when such dismissals occurred. During the year there were no such dismissals.

b. The Right to Organize and Bargain Collectively.—The right to collective bargaining, without government interference, is protected in law and freely practiced. The law also prohibits antiunion discrimination and employer interference in union functions, and the government enforced this right.

During the year the government established Multi-Facility Economic Zones in Lusaka and Chambishi. There are no known special laws or exemptions from regular labor laws in these zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred in labor-intensive, informal-sector work such as domestic service, hospitality, agriculture, construction, and sexual exploitation. The law authorizes the government to call upon citizens to perform labor in specific instances, such as during national emergencies or disasters. The government also may require citizens to perform labor associated with traditional civil or communal obligations, as when a traditional leader or other dignitary calls upon all members of a village to assist in preparing for a visit; however, there were no reports of such activities during the year.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits employment of children at any commercial, agricultural, or domestic worksite and the engaging of a child in the worst forms of child labor as defined in international conventions. Nevertheless, child labor was a problem in subsistence agriculture, domestic service, construction, farming, transportation, prostitution, quarries, mines, and other informal sectors, where children under the age of 15 often were employed, and the law was not enforced. The law also prohibits slavery and the procurement or offering of a child for illicit activities.

The minimum age for employment is 15; for hazardous work, it is 18. The labor commissioner effectively enforced minimum age requirements in the industrial sector, where there was little demand for child labor; however, minimum age standards were seldom enforced in the informal sector, particularly in mining and agriculture. Zambia ratified ILO Convention 182 in 2001 but had not promulgated a list of occupations considered to be the worst forms of child labor. Among the worst forms prohibited by law are child prostitution, slavery in all its forms, military conscription, and work that is harmful to the safety, health, or morals of children and young persons.

During the year children, particularly those who had lost both parents to HIV/AIDS, were sent to rural areas to be cared for by relatives, or they lived on the streets.

The MLSS is responsible for the implementation and enforcement of child labor laws and regulations. The MLSS can bring charges that provide for penalties ranging from a fine to a maximum three months' imprisonment, or both, for violations. Labor inspectors may also enter family homesteads and agricultural fields to check for child labor violations.

Because more than 85 percent of child labor occurred in the agricultural sector, most often with the consent of families, the MLSS labor inspectors focused on counseling and educating families that engaged children in child labor and did not refer any cases for prosecution during the year. Due to the scarcity of transportation, labor inspectors frequently found it difficult to conduct inspections in some rural areas. In cooperation with NGO partners, the government continued its efforts to remove children from abusive situations. The children, mainly orphans, were placed in formal and transitional classes, while others were given vocational skills training. By year's end local governments had established 16 District Child Labor Committees to perform outreach and plan activities for vulnerable and working children. The purpose of the committees was to increase awareness of child labor laws and

the harmful effects of child labor and to mobilize communities to eliminate the worst forms of child labor.

The government continued to provide awareness and training activities for officials charged with enforcing child labor laws; however, the MLSS reported that resource constraints prevented it from providing all required training. The government participated in several projects to combat child labor and had generally been supportive. During the year a government-supported project to withdraw 3,000 children from exploitive work and prevent 7,000 other children from entering it through the provision of education and training services concluded. A second multinational project to combat child labor through education continued at year's end.

e. Acceptable Conditions of Work.—The minimum wage in the formal sector was 268,000 kwacha (\$53.6) per month, based on the legal maximum workweek of 48 hours. Significant parts of the workforce, including foreign and migrant workers, are not covered by minimum wage provisions and other acceptable conditions of work. The minimum wage for nonunionized workers, whose wages and conditions of employment were not regulated through collective bargaining, was determined by category of employment. The minimum wage did not provide a worker and family with a decent standard of living; most minimum wage earners supplemented their incomes through second jobs, subsistence farming, or reliance on extended family. The minimum wage act did not apply to domestic servants. The MLSS is responsible for enforcing the minimum wage, and its inspectors received and resolved complaints.

For unionized workers, wage scales and maximum workweek limits were established through collective bargaining. In practice almost all unionized workers received salaries considerably higher than the nonunionized minimum wage. The standard workweek was 40 hours, and there were limits on excessive compulsory overtime, depending on the work category of work. The law requires required that workers earn two days of annual leave per month, and there is no limit on how much leave they can accrue. The law provides for overtime pay. Employers must pay employees who work more than 48 hours (45 hours in some categories) in one week at a rate of one and one-half times their hourly rate for their overtime hours. Workers receive double the rate of their hourly pay for work done on a Sunday or public holiday. The government effectively enforced these standards.

The law also regulates minimum health standards in industry, and city and district councils were responsible for enforcement. The inspector of factories under the minister of labor handled factory safety; however, staffing shortages limited enforcement effectiveness. The MLSS continued to conduct labor inspections during the year and ordered businesses to close when it found significant violations of labor laws.

On January 14, the government closed operations at the Chinese Collum Coal Mine in Sinazongwe after two miners died in two mine accidents caused by poor safety conditions. The mine was reopened on February 23 after the mine owners complied with the required safety rules.

The law protects the right of workers to remove themselves from work situations that endangered health or safety without jeopardy to their continued employment, but workers did not exercise this right in practice. The government acted when well-known occupational health problems existed, such as by requiring that underground mine workers receive annual medical examinations.

ZIMBABWE

Zimbabwe, with a population of approximately nine million, is constitutionally a republic, but the government, dominated by President Robert Mugabe and his Zimbabwe African National Union-Patriotic Front (ZANU-PF) since independence, was not freely elected and was authoritarian. The last four national elections—the presidential election in 2002, parliamentary elections in 2005, harmonized presidential and parliamentary elections in March 2008, and the presidential run-off in June 2008—were not free and fair. In the March 2008 elections, two factions of the opposition Movement for Democratic Change (MDC), known as MDC-T to denote Morgan Tsvangirai's faction and MDC-M for the group aligned with Arthur Mutambara, gained a parliamentary majority. Mugabe was declared the winner of the June 2008 run-off election after opposing candidate Tsvangirai withdrew due to ZANU-PF-directed violence that made a free and fair election impossible. Negotiations subsequently took place between ZANU-PF and the two MDC factions on a power-sharing government. In September 2008 the three parties signed the Global Political Agreement (GPA), a power-sharing agreement under which Mugabe would retain the presidency and Tsvangirai would become prime minister-elect. On Feb-

ruary 11, Tsvangirai was sworn in as prime minister. On February 13, new cabinet ministers and deputy ministers from MDC-T, MDC-M, and ZANU-PF were sworn in. Although the constitution allows for multiple parties, ZANU-PF, through the use of government and paramilitary forces, continued to intimidate and commit abuses against opposition party members and supporters and obstructed their activities. The Joint Operation Command, a group of senior security and civilian authorities, maintained control of the security forces and often used them to repress opposition to ZANU-PF.

Security forces, the police, and ZANU-PF-dominated elements of the government continued to engage in the pervasive and systematic abuse of human rights. ZANU-PF's dominant control and manipulation of the political process through trumped-up charges and arbitrary arrest, intimidation, and corruption effectively negated the right of citizens to change their government. Politically motivated, arbitrary, and unlawful killings by government agents continued. State-sanctioned use of excessive force continued, and security forces tortured members of the opposition, student leaders, and civil society activists with impunity. Security forces continued to refuse to document cases of political violence committed by ruling party loyalists against members of the opposition. Prison conditions improved but remained harsh and life threatening. Security forces, who regularly acted with impunity, arbitrarily arrested and detained the opposition, members of civil society, labor leaders, journalists, demonstrators, and religious leaders; lengthy pretrial detention was a problem. Executive influence and interference in the judiciary continued. The government continued to use repressive laws to suppress freedom of speech, press, assembly, association, and movement. The government restricted academic freedom. Government corruption remained widespread. High-ranking government officials made numerous public threats of violence against demonstrators and members of the opposition. The government continued to evict citizens and to demolish homes and informal marketplaces. Thousands of citizens were displaced in the wake of increasingly violent farm invasions, and the government impeded nongovernmental organization (NGO) efforts to assist the displaced and other vulnerable populations. The following human rights violations also continued: violence and discrimination against women; trafficking of women and children; discrimination against persons with disabilities, ethnic minorities, the lesbian, gay, bisexual, and transgender (LGBT) community, and persons with HIV/AIDS; harassment and interference with labor organizations critical of government policies; child labor; and forced labor, including by children.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents committed politically motivated, arbitrary, and unlawful killings during the year. By year's end at least 19 citizens had died as a result of injuries sustained from political violence that targeted members of the opposition party in 2008, in addition to the more than 200 who died in 2008. At least three persons were killed as a result of politically motivated violence during the year. The MDC-T continued to claim that approximately 200 other members and supporters were missing and presumed dead in the wake of election-related violence in 2008. The killings were primarily committed by members of ZANU-PF, ZANU-PF youth militia, war veterans, and, to a lesser extent, members of the military and police. NGOs also estimated security forces killed at least 40 persons in the Chiadzwa diamond fields in Manicaland Province during the year.

Security forces killed opposition members during the year. On August 30, MDC-T activist Godknows Dzoro Mtshakazi was beaten to death by four soldiers in Shurugwi, Midlands Province, after being accused along with several other MDC-T members of organizing an MDC-T rally and playing a pro-MDC-T song in a bar. The four soldiers assaulted the group before taking Mtshakazi to a nearby army base, where he was beaten further and killed, according to witnesses. The soldiers subsequently sent word to Mtshakazi's wife to collect her husband's body. There was no further investigation by year's end.

Security forces continued to engage in extralegal killings in connection with illegal diamond mining. For example, on March 30, Takunda Neshumba died as a result of being tortured in police custody. Neshumba was visiting a relative near the Marange diamond fields when he was abducted by soldiers who turned him over to a police officer, who subsequently beat him over the course of several days. According to a post-mortem report, Neshumba died as a result of severe injuries to his feet, wrists, hands, buttocks, and lower back. Neshumba's family requested an investigation by the police station that facilitated the post-mortem exam. No further action had been taken by year's end.

On June 21, 20-year-old Barnabas Makuyana was illegally digging for diamonds in Marange when he and a friend were captured by soldiers. Soldiers beat them for 16 hours until Makuyana died from his injuries. The friend then carried Makuyana's body to a hospital mortuary, where Makuyana's family could only identify his disfigured body from his clothing. Police refused to issue a post-mortem report to the family. No further action had been taken by year's end.

On September 5, soldiers captured and beat Moreblessing Tirivangani at a military base in Chiadzwa; Tirivangani died from his injuries. Police transported Tirivangani's body to a morgue and reported that he was captured while attempting to disarm a soldier in the diamond fields in Marange. However, witnesses reported the soldiers seized Tirivangani when they found him in the mining area after an army-imposed curfew. There were no further developments in the case.

In late 2008 security forces undertook a major operation to kill illegal diamond miners in the Marange/Chiadzwa area of Manicaland to ensure the government retained the proceeds from diamond sales. According to a July report by the international NGO Human Rights Watch (HRW) entitled *Diamonds in the Rough: Human Rights Abuses in the Diamond Fields of Marange*, at least 214 informal diggers were killed in the operation, known as Operation Hakudzokwi, meaning "you will not return."

There were killings by political party supporters during the year. For example, on July 30, 16-year-old Arnold Mosterd died after being beaten by ZANU-PF supporters in Macheke, Mashonaland East. Mosterd was reportedly killed after he asked for outstanding wages from a local ZANU-PF chairman, Harry Munetsi. According to villagers, seven suspects who had previously accused Mosterd of supporting the MDC, tied Mosterd, cut his chin with a knife, and pierced his stomach with hot iron bars before carrying his dead body in a wheelbarrow to the road. The suspects were arrested, but Minister of State in the President's Office Didymus Mutasa reportedly ordered the release of the suspects on bail three days later. Mutasa also allegedly told villagers to "deal with" strangers who visited the area inquiring about the killing, as they would be MDC supporters. No further action was taken by year's end.

Despite the more than 200 killings resulting from political violence in 2008, there were no prosecutions or convictions in any of the cases. The Zimbabwe Human Rights NGO Forum filed 400 civil suits in the High Court against perpetrators for wrongful deprivation of life; all were pending at year's end.

There were no other developments in previously reported killings from 2007 or 2008.

b. Disappearance.—There were numerous credible reports of politically motivated abductions and attempted abductions during the year. MDC leaders reported that state security agents and ZANU-PF party supporters abducted and tortured dozens of opposition and civil society members, as well as student leaders, as part of an effort to intimidate MDC supporters and civil society members and leaders. In the majority of cases, victims were abducted from their homes or off the streets by groups of unidentified assailants, driven to remote locations, interrogated and tortured for one or two days, and abandoned. In some cases the abducted person was located in police custody days or weeks later.

For example, on March 11, in Mudzi, ZANU-PF supporters abducted an MDC-T leader and took him to a nearby ZANU-PF base, where they beat him on the buttocks with sticks while accusing him and his family of supporting the MDC-T. The MDC-T leader was forced to listen to ZANU-PF propaganda throughout the day. Upon his release, he discovered that ZANU-PF supporters had stolen one of his cows and eight goats. That night the ZANU-PF supporters returned to the MDC-T leader's homestead and again took him to the base and beat him. He received medical treatment for his infected wounds and reported the incident to police. No further action had been taken by year's end.

On May 17, suspected ZANU-PF youths abducted and tortured an MDC-T party chairperson from Sicola Farm in Wedza North after the chairperson attended an MDC-T meeting at which the prime minister was present. The victim was reportedly taken to the house of the local ZANU-PF chairperson, where firewood was used to burn his hands and foot; he was released the following day, and no action was taken in the case.

On May 18, in Mashiri village in Mashonaland Central, suspected Central Intelligence Organization (CIO) agent Chamunorwa Shutu ordered four ZANU-PF youths, Rodrick Kanengoni, Nyashadzashe Kanengoni, Munetsi Kanengoni, and Chamunorwa Shutu, to abduct 13 MDC-T supporters for allegedly holding an MDC-T meeting. The 13 had attended a May 16 memorial service to commemorate the deaths of six MDC-T activists who were killed by ZANU-PF officials and war veterans at Chaona Primary School in May 2008. The youths abducted and severely

beat the 13 MDC-T supporters; all sustained serious injuries, and one underwent surgery for his wounds. Subsequently, the MDC-T supporters were arrested and charged with assaulting the same four ZANU-PF youths who had abducted them. On September 10, magistrate Feresi Chakanyuka found 11 of the MDC-T supporters guilty of assault; they were sentenced to pay fines of \$20 and did not appeal. Two others were acquitted. The four ZANU-PF youths and Shutu were also arrested and charged with assault; their trial was postponed indefinitely after Magistrate Charles Murove recused himself from the case on September 25, reportedly under pressure from Shutu. The case was referred to the attorney general; no decision had been made by year's end.

Several abductions were committed by MDC supporters in retaliation for ZANU-PF initiated violence. For example, on February 6, in Buhera South, suspected MDC supporters abducted a ZANU-PF party activist from Chinyoka Village, forced him to march to nearby hills, and reportedly tied him to a tree and beat him.

The government seldom investigated reported abductions.

Multiple 2008 court cases against 18 persons, including 14 MDC-T members, three human rights activists, and one journalist who were abducted and tortured by state security agents and then turned over to police in December 2008, continued during the year. Medical examinations confirmed injuries consistent with torture. On January 26, a magistrate dismissed a January 21 affidavit filed by State Security Minister Didymus Mutasa that sought to block an investigation into the abductees' allegations. Police were ordered to investigate the allegations and report to the court on February 9; at year's end no report had been made available. During the year the abductees were denied medical treatment in violation of high court orders, and their court cases were repeatedly delayed in an apparent effort to prevent details of their abductions from becoming public.

On January 6, the government filed charges of sabotage against seven of the abductees—freelance journalist Andrisson Manyere and MDC-T activists Gandhi Mudzingwa, Zacharia Nkomo, Chinoto Zulu, Chris Dhlamini, Mapfumo Garutsa, and Regis Mujeyi, also known as the “bombers”—for alleged involvement in various 2008 police station and railroad bombings. All seven continued to face charges at year's end. On January 16, Justice Tedi Karwi ruled that the seven should be allowed medical treatment by a medical practitioner of their choosing outside of Chikurubi Maximum Security Prison, where the men were being held. This was the third high court order granting them medical treatment after two other orders were issued in 2008. On February 6, Andrisson Manyere, Gandhi Mudzingwa, and Chris Dhlamini were taken to a private hospital and granted medical treatment. However, prison officials interrupted the examination and took the men back to Chikurubi Prison. During the brief examination, doctors identified serious medical conditions that required hospitalization. On February 12, prison officials took Mudzingwa back to the hospital. On February 16, a high court judge issued another order directing prison officials to take all seven men to a private clinic for treatment; however, only Nkomo and Zulu were taken. On February 19, Justice Yunus Omerjee granted four of the seven men bail; however, the government immediately blocked their release by notifying the judge of its intent to appeal. On February 27, the defense lawyers alerted the judge that the government had not yet filed its appeal. Justice Yunus Omerjee then informed the defense lawyers that the February 19 bail order remained valid. On March 4, Nkomo, Zulu, Garutsa, and Mujeyi were released after meeting the strict bail requirements. On February 27, Dhlamini was admitted to the hospital under prison guard where he was held with Mudzingwa and Manyere. On April 9, Justice Charles Hungwe granted Dhlamini, Mudzingwa, and Manyere bail; however, the government again blocked their release by notifying the court of its intention to appeal to the Supreme Court. When the government failed to lodge the appeal within the legally mandated seven days, the remaining three were released on April 17.

Upon Dhlamini, Mudzingwa and Manyere's release, prison guards outside Mudzingwa and Dhlamini's room in a local hospital returned their personal belongings to them and left the hospital. Although Mudzingwa and Dhlamini had been granted bail, prison guards resumed guarding their hospital room on April 20, citing “instructions from above.” On April 30, Justice Bharat Patel issued a high court order ruling that the Easter weekend public holidays had extended the seven-day period for the government to note its bail appeal. Authorities subsequently arrested Dhlamini and Mudzingwa's lawyer, Alec Muchadehama, and court clerk Constance Gambara, who had prepared the orders of release on April 17 (see section 1.d.).

On January 7, in a separate case against some of the 18 abductees, nine persons—Zimbabwe Peace Project (ZPP) Director Jestina Mukoko, ZPP officer Broderick Takawira, and MDC-T activists Fidelis Chiramba, Concilia Chinanzavana, Emmanuel Chinanzvana, Pieta Kaseke, Violet Mupfuranhehwe, Collen Mutemagu,

and Audrey Zimbudzana, known as the “recruiters”—were accused of recruiting persons to commit terrorism and banditry, including the recruitment of insurgents to train in Botswana for an alleged armed uprising against the Zimbabwean government. Two other abductees, Tawanda Bvumo and Pascal Gonzo, were ordered released without charge in December 2008. However, despite the court order, prison officials did not release Bvumo until January 23 when another judge ordered his release. Gonzo was released after a judge again ordered his release on February 5.

These abductees experienced similar delays in accessing medical care while in custody. On January 20, authorities at Chikurubi Prison allowed Mukoko to see a doctor of her own choosing at a private hospital. Her doctor found that she was extremely hypertensive and needed to be checked every four hours. Against her doctor’s recommendations, prison officials returned Mukoko to the prison the same day, where she was taken to the prison medical unit and held in leg irons for 24 hours. On February 6, 72-year-old Chiramba was granted access to medical care; on January 30, a magistrate ordered that he be granted same-day medical treatment. Shortly after arriving at the private hospital, Chiramba was abruptly returned to prison by officials. On February 12, prison officials again brought Mukoko and Chiramba to the hospital but returned them to the prison several hours later. Later that evening, prison officials relented and again transported Chiramba and Mukoko to the hospital. On February 13, another magistrate again ordered prison officials to grant Mukoko and Chiramba access to medical care at a private hospital until their own doctors deemed them fit to return to prison. During the February 13 hearing, a prison doctor testified that Chiramba and Mukoko suffered from serious conditions that could not be controlled at the prison clinic. The doctor also testified that Mukoko suffered from thrombophlebitis, swelling consistent with beating on the soles of the feet. On February 27, a magistrate granted bail to the nine abductees accused of recruiting others to launch an armed insurgency. They were released in subsequent days after meeting strict bail requirements.

On May 4, the attorney general formally indicted 16 of the abductees, including the seven alleged “bombers” and the nine alleged “recruiters.” In the May 4 hearing, the prosecutor applied for the group to be recommitted to prison, arguing that the presentation of their indictments for trial cancelled their bail. On May 5, magistrate Catherine Chimwanda refused to hear evidence from the Attorney General’s Office about the February 27 bail agreement or to allow the defense to call two witnesses who had been subpoenaed. She declined to entertain further argument and granted the prosecutor’s application to commit the abductees to prison. Consequently, the 13 abductees who had previously been released on bail were sent back to Chikurubi Prison. Three other abductees—Dhlamini, Mudzingwa, and Manyere—remained in private medical facilities under prison guard. On May 6, the attorney general told the abductees’ lawyers he no longer opposed bail, and after a hearing the same day the government consented to the reinstatement of bail for these 13 abductees on the same conditions; on May 6, the 13 were rereleased. On May 13, Dhlamini, Mudzingwa, and Manyere were granted bail by Justice November Mtshiyi. Two journalists were arrested after publishing the names of the security officials involved in the abduction and torture of these abductees (see section 2.a.).

The 16 abductees facing banditry and terrorism charges were scheduled to be tried in three different groups in June and July; their trials were delayed pending appeals to the Supreme Court. The first appeal, filed by Jestina Mukoko, was heard by the Supreme Court on June 24. Mukoko argued that her abduction, torture, and illegal detention in December 2008 constituted such a grave violation of her human rights that the court should permanently stay the prosecution’s case against her. During the hearing Mukoko’s lawyers described her abduction and torture in detail; the government’s lawyer conceded that the details presented by Mukoko’s lawyer were generally accurate. On September 28, the Supreme Court issued a unanimous ruling that Mukoko’s constitutional rights were violated to such an extent that a permanent stay of the prosecution against her was warranted, and the case was dropped. An additional 15 abductees’ appeals to the Supreme Court were pending at year’s end.

Mukoko and other abductees separately sued two cabinet ministers and the security agents who abducted them for a combined \$19.2 million in damages for the unlawful abduction, detention, and deprivation of liberty. In a July 27 high court application, Mukoko claimed \$220,000 from co-Ministers of Home Affairs Kembo Mohadi and Giles Mutsekwa and Defense Minister Emmerson Mnangagwa. Mukoko sued Minister of State for National Security Didymus Mutasa, who had attempted to block an investigation into Mukoko’s torture allegations. Mukoko also sued Attorney General Johannes Tomana, Police Commissioner General Augustine Chihuri, Police Chief Superintendent Peter Magwenzi, and CIO agent Walter Tapfumaneyi. At year’s end the High Court had not set a date to hear Mukoko’s application. She also

claimed \$20,000 from Tomana for allegedly failing to meet his constitutional obligation to ensure the arrest and prosecution of her alleged kidnappers. At year's end police had not launched an investigation into the abduction of any of the above named abductees.

On January 15, the government acknowledged that three additional abductees, MDC-T activists Lloyd Tarumbwa, Terry Musona, and Fanny Tembo, were in custody, claiming that the three were witnesses in the case against the "recruiter" abductee group and were in "protective custody." The three were abducted in October 2008 by security agents, tortured, and forced to make false confessions against those charged with recruiting insurgents. The three were not allowed to contact their families until March. All three were released on March 7 following an order by High Court Justice Ben Hlatshwayo. On June 2, the three were again taken from their homes by a man who initially refused to identify himself. The man, later identified as a police inspector, drove them to the Attorney General's Office in Harare, where they were held for several hours and forced to sign affidavits swearing to their false confessions. Police and officials in the Attorney General's Office refused to grant them access to their lawyer. An unidentified official warned the three that if they did not testify, they would face serious unspecified consequences. After they had signed the affidavits, the three were driven towards their homes near Banket, Mashonaland West, and dropped several miles outside of town, forcing them to complete the rest of the journey on foot. The affidavits were taken in anticipation of the first trial for one group of abductees that was scheduled to begin on June 8. However, that trial had not begun at year's end pending an appeal to the Supreme Court. On June 6, Tarumbwa, Musona, and Tembo appeared before a high court judge with their lawyers to state that their testimony had been extracted after torture by security agents and that their affidavits were signed under duress. During a closed-door hearing with the judge and lawyers for the three abductees and the government's lawyer, MDC-T Director General Toendepi Shonhe signed an affidavit saying that the three had been abducted again. Shonhe was subsequently arrested and charged with perjury on June 17 as a result of his statement (see section 1.d.).

One abductee, Bothwell Pasipamire, an MDC-T councilor from Kadoma, escaped his captors and fled to South Africa. He later told the press that he was abducted from his home in December 2008 and driven to a base near Harare, where he was interrogated by Army Warrant Officer Mabhunu. Pasipamire stated that Mabhunu beat him on the soles of his feet and forced to him to lie naked on a table while Mabhunu squeezed Pasipamire's testicles and threatened him. Mabhunu then forced Pasipamire, under the threat of further torture, to act out beating a soldier while being videotaped. Pasipamire was subsequently forced to confess to beating the soldier at the instigation of then prime minister-designate Tsvangirai. Several days later Pasipamire escaped to South Africa.

On June 29, Peter Munyanyi, who was abducted in December 2008 in Gutu South, fled his captors after spending six months in captivity in an unknown location. Munyanyi reported that he was held by security agents in a dark room without blankets, clothing, or toilet facilities. When he was abducted, his captors beat him, breaking his arm in the process. He was not allowed access to medical treatment during his detention.

At year's end the whereabouts of the following MDC-T activists abducted in 2008 remained unknown: Gwenzi Kahiya, Ephraim Mabeka, Lovemore Machokoto, Charles Muza, Edmore Vangirayi, and Graham Matehwa.

There were no further developments in the 2007 or 2008 cases of disappearance.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Although the constitution prohibits torture and other cruel, inhuman, or degrading treatment or punishment, security forces continued to engage in such practices. Security forces continued to commit political violence, including torture of citizens in custody. Army and police units organized, participated in or provided logistical support to perpetrators of political violence and generally permitted their activities. Police also continued to refuse to record reports of politically motivated violence or destruction of property that occurred during the year or during widespread political violence in 2008. Police used excessive force in apprehending and detaining criminal suspects. ZANU-PF supporters continued to assault suspected and known MDC members and their families, civil society activists, and student leaders. Violent confrontations between various youth groups aligned with either ZANU-PF or the MDC continued.

Human rights groups reported that physical and psychological torture perpetrated by security agents and government supporters continued during the year. One NGO report stated that at least 3,316 victims of torture and assault received medical treatment during the year, a reduction from the 6,300 victims recorded in 2008. Victims of 2008 election violence continued to require medical care for injuries inflicted

in 2008. Torture and other assault methods commonly reported included beating victims with sticks, logs, whips, and cables; suspension; burning; electric shock; and falanga (beating the soles of the feet).

On October 27, suspected security agents in Harare abducted MDC-T Transportation Manager Pascal Gwezere, whom they subsequently tortured by suspending, beating and biting on the face and ear to extract information about the MDC-T before conducting a mock burial. On October 31, Gwezere was taken to Harare Remand Prison as a result of injuries from the beatings. On the same day, Gwezere was charged with stealing 21 weapons from a military barracks in Harare. Despite repeated requests, Gwezere was not allowed to contact a lawyer before his hearing. On November 23, High Court Judge Charles Hungwe granted Gwezere bail; however, the prosecution immediately appealed to the Supreme Court, which, under the law, required the magistrate to deny bail pending the outcome of the appeal. On December 21, Supreme Court Judge Wilson Sandura dismissed the government's appeal and ordered Gwezere's release; however, prison authorities delayed the release until December 24. Despite repeated requests beginning on October 31, Gwezere was denied medical treatment throughout his detention. The case was pending at year's end.

Within the security forces, intelligence officers and soldiers used torture to discipline and extract confessions from soldiers. For example, after several dozen weapons were discovered missing from the Pomona military barracks in Harare in October, hundreds of soldiers were detained, questioned, and physically assaulted in November to extract confessions of stealing the weapons. The press reported that at least one soldier died in custody, likely as a result of injuries sustained during repeated torture sessions.

Police repeatedly used cruel, inhuman, or degrading treatment or punishment against those in custody. After four women were beaten by police on June 17 (see section 2.b.), Amnesty International, in a June 9 press release, called for an independent body to provide oversight to the police to prevent abuses and described the incident as "one of the many cases documented by Amnesty International that shows Zimbabwean police's poor record of policing peaceful demonstrations and ill-treatment of perceived political opponents while in custody."

Police also used excessive force to disperse demonstrators. For example, on February 10, approximately 600 members of the NGOs Women of Zimbabwe Arise (WOZA) and Men of Zimbabwe Arise led a demonstration in Harare under a banner proclaiming "let love light the way." After the demonstrators marched toward Parliament and handed out roses and Valentine's Day cards to bystanders and members of Parliament (MPs), police violently disrupted the march and used batons to seriously injure several women. Eight women were arrested, along with two lawyers walking by Parliament during the demonstration; all were charged with disturbing the peace. Three of the women were beaten in police custody; one was pregnant and was treated for deep tissue bruising after her release from the hospital. All 10 were tried and acquitted on May 28 in a Harare magistrate's court. During the trial a police officer testified he had not personally beaten any women because he did not "have time."

In 2008 Eric Matinenga, MP for Buhera West and a prominent attorney, presented a case before the High Court alleging that defense force members harassed, assaulted, and humiliated MDC-T supporters. The case named Commander of the Defense Forces Constantine Chiwenga and Major Svosve as the organizers of the repressive activities by security personnel in Buhera. In May 2008 Justice Bhunu issued a court order declaring the deployment of defense forces in Buhera unlawful and ordered their withdrawal; however, army personnel, including Major Svosve, reportedly remained in the area.

Youth militia and "war veterans" trained by ZANU-PF were also deployed to harass and intimidate members of the opposition, labor, student movement, civic groups, and journalists considered critical of the government, and white farmers and their employees. For example, on January 13, a man was tortured after stating that President Mugabe was responsible for the political stalemate. After making the comments at work, he was locked in a closet until the end of the day when his bosses, war veterans and ZANU-PF supporters, took him outside and tied him to a tree. Between four and eight persons beat him on his back, buttocks, and feet while pouring water on him and threatening to throw him in the river. The perpetrators put a sock in his mouth to prevent him from screaming.

On April 3, an estimated 300 ZANU-PF youths attacked a 77-year-old MDC-T member at his home near Murehwa. The youths accused him of supporting the MDC-T and beat him with iron bars and logs on his testicles, hand, and neck. They also beat his wife and destroyed his home.

On April 21, ZANU-PF youths occupying Twyford Farm in violation of a March 9 high court order prohibiting the occupation harassed 18 farm workers and beat five of them, including an elderly man. The ZANU-PF youths were reportedly acting on instructions of ZANU-PF Senator Jamaya Muduvuri, who subsequently claimed ownership of the farm. A report was filed at Chegutu Police Station; however, police took no action. The employer of the 18 men was instructed by the senior police officer at the station to contact Muduvuri and resolve the matter with him since he was the owner of the farm.

On numerous occasions citizens were harassed or assaulted for listening to music or singing songs affiliated with the MDC-T. For example, on May 9, in Machingambi village in Zaka District, ZANU-PF supporters dragged a man to the court of a nearby traditional leader; he was questioned for four hours and then reprimanded for playing "MDC songs" at his home.

On June 14, ZANU-PF youths in Zvimba assaulted a man and crushed his radio after he tuned in to the independent Studio 7 station; the victim was accused by the perpetrators of spreading MDC propaganda.

On July 31, MP for Chinhoyi Stewart Garadhi was arrested for allegedly insulting the president. When police stopped him at a roadblock, they noted that he was playing the MDC-T 2008 campaign song Nharembozha by fellow MDC-T MP Thabitha Khumalo. Police released Garadhi without charge after several hours.

The government admitted that state security agents had tortured Jestina Mukoko, Broderick Takawira, and others who were abducted in late 2008 (see section 1.b.).

Rape was also used as a tool of political violence. For example, on May 1, a group of youths in Bare Vvillage in Mashonaland Central ordered a well-known MDC-T activist to chant ZANU-PF slogans. When the activist refused, she was raped in front of her 10-year-old son. The perpetrators, Richard Gomo and John Chitima, were arrested and reportedly sentenced to five years in prison.

MDC members used violence and torture in retaliation for past ZANU-PF-led violence. For example, on February 7, MDC youths in Buhera Central reportedly assaulted a war veteran for threatening to "go back to the bush if Tsvangirai gets into power."

On February 11, suspected MDC supporters in Muzvezve, Kadoma, assaulted a suspected ZANU-PF supporter who had denounced Tsvangirai's inauguration.

No action was taken in the other 2007 or 2008 cases of abuse.

Prison and Detention Center Conditions.—Prison conditions remained harsh and life threatening. The government's 42 prisons were designed for a maximum of 17,000 prisoners. Local NGOs and the International Committee of the Red Cross (ICRC) estimated that there were approximately 12,000 to 14,000 prisoners in the Zimbabwe Prison System (ZPS) at year's end, a significant reduction from a 2008 NGO estimate of 35,000 and the 2008 government estimate of 22,000 to 24,000. Prison guards beat and abused prisoners. Poor sanitary conditions and overcrowding persisted, which aggravated outbreaks of cholera, diarrhea, measles, tuberculosis, and HIV/AIDS-related illnesses.

Lawyers, NGOs, and church officials familiar with prison conditions reported that although the situation had improved since 2008, shortages of food, water, electricity, clothing, and soap continued. In April an undercover film crew produced a documentary entitled "Hellhole" that depicted serious malnutrition and unsanitary conditions that directly contributed to severe cholera in prisons in late 2008 and early 2009. Local NGOs believed that the publicity from the documentary prompted the government to grant NGOs greater access to provide prisoners with food, clothing, and medical and legal services.

NGOs reported that the death rate decreased significantly during the year; however, the ZPS did not keep statistics on prisons deaths. NGOs estimated that the death rate was 40 deaths per month during the year, a reduction from the estimated 40 to 50 deaths per week during the height of the 2008 prison crisis. Most observers attributed the dramatic decrease to the ICRC's feeding program, which was the direct result of efforts by MDC-T Deputy Minister of Justice Jessie Majome to permit the ICRC and NGOs increased access to the prisons. Most prison deaths were attributed to harsh conditions, hunger, and HIV/AIDS. NGOs continued to estimate that half of prisoners were HIV-positive; the ZPS did not routinely test prisoners for HIV. Due to inadequate facilities, outdated regulations, and the lack of medical personnel and medication, the majority of prisoners were consistently ill, and routine medical conditions such as hypertension, diabetes, and asthma were life threatening.

NGOs estimated that there were 500 women in prison; 43 children under the age of five lived with their incarcerated mothers. NGOs reported that female prisoners generally fared better than males. Women generally received more food from their

families than male prisoners, resulting in reduced rates of malnutrition. Prison officials also appeared to have prioritized food distribution to women. NGOs were unaware of women reporting rapes or physical abuse, which were common among the male population, and suggested that female guards may have been more diligent about protecting female prisoners from abuse and that female prisoners may not have reported abuse. However, women prisoners continued to endure significant hardship. For example, prisons did not provide feminine sanitary supplies for women, resulting in frequent fungal infections, as female inmates were forced to reuse torn pieces of dirty blankets during their menses. Pregnant and nursing mothers were not provided additional care or food rations. According to lawyers, female offenders also received sentences that were on average two to three years longer than male offenders for the same crime.

NGOs and the ZPS estimated there were approximately 300 juveniles in prison facilities; the majority were being held in pretrial detention. Although juveniles were not officially held separately from adults, officials in remand prisons generally tried to place juvenile inmates in cells separate from adults. However, an estimated 20 convicted juveniles were held in the same prison cells as adult offenders. Juveniles were particularly vulnerable to the effects of poor prison conditions, and local NGOs reported several complaints of physical and sexual abuse.

In January a two-year-old child who was abducted with his mother from Zimbabwe South in October 2008 and appeared in police custody in December 2008 was released from prison. Due to overcrowding in police stations and remand prisons, pretrial detainees were often held in prisons with convicted prisoners until their bail hearings.

The law provides international human rights monitors the right to visit prisons, but government procedures and requirements made it difficult to do so. The government granted local NGOs access on a number of occasions during the year. After being denied permission to visit the prisons for several months, the ICRC resumed visits in April to all prisons and detention centers in the country. With the ICRC's help, severe malnutrition was greatly reduced in the prison community. At year's end the ICRC reported that 100 prisoners were receiving therapeutic feeding, reserved for prisoners who were severely malnourished. The ICRC reported that all of their meetings with prisoners occurred without third parties present and that there were no restrictions placed by the ZPS on how they operated within the prisons.

Local NGOs continued to lobby the government to release prisoners who had committed misdemeanors and whose incarceration put pressure on the crowded prison system. Judges in Bulawayo released 400 prisoners and detainees who had experienced prolonged detention from the Khami Remand Prison on compassionate or medical grounds.

d. Arbitrary Arrest or Detention.—The constitution and law prohibit arbitrary arrest and detention; however, some laws effectively weakened this prohibition, and security forces repeatedly arbitrarily arrested and detained persons.

Role of the Police and Security Apparatus.—The Zimbabwe Republic Police (ZRP) is responsible for maintaining law and order. Although the ZRP officially is under the authority of the Ministry of Home Affairs, in practice the President's Office, through the Joint Operation Command, controlled some roles and missions. The Zimbabwe National Army and Air Force, under the Defense Ministry, were responsible for external security; however, there were cases in which the government called upon them for domestic operations. The CIO, under the Ministry of State for National Security, is responsible for internal and external security.

Police were poorly trained and equipped, underpaid, and corrupt. Severely depleted human and material resources, especially fuel, further reduced police effectiveness during the year. Corruption continued in part due to low salaries. Security forces perpetrated government-sponsored politically motivated violence. Police routinely and violently disrupted public gatherings and demonstrations, and they tortured opposition and civil society activists in their custody. It was difficult for rank-and-file police to remain impartial due to continued politicization of the force's upper echelons. There were reports that police and army personnel suspected of being sympathetic to the political opposition were threatened with demotion or suspension.

Security forces were rarely held accountable for abuses. Frequent allegations of excessive force and torture were often dismissed by senior government officials who claimed that the actions were necessary to maintain public order. In March 2007, after security forces violently prevented a public gathering, Mugabe was widely quoted as saying that "the police have a right to bash" protesters who resist them. Mechanisms to investigate security force abuses remained weak. Court orders com-

pling investigations into allegations of abuse were routinely ignored by authorities. For example, security forces refused to comply with court orders to investigate security agents involved in abducting and torturing more than a dozen activists in 2008 (see section 1.b.). Government efforts to reform the security forces were minimal, and training was rarely provided.

Police continued to refuse to investigate cases of political violence. The November 2008 report, *Our Hands Are Tied: Erosion of the Rule of Law in Zimbabwe*, described occasions when police officers were ordered not to investigate or arrest ZANU-PF supporters who might have been implicated in political violence.

Police seldom responded during incidents of vigilante violence.

Arrest Procedures and Treatment While in Detention.—Arrests require court-issued warrants, and the law requires that police inform an arrested person of the charges before taking the individual into custody; however, these rights were not respected in practice. Although the law requires a preliminary hearing before a magistrate within 48 hours of an arrest (or 96 hours over a weekend), authorities routinely disregarded the law if a person did not have legal representation. Police typically made arrests, which may have been politically motivated, on Friday, which permitted legal detention until Monday. There were numerous reports of security forces arbitrarily arresting opposition and civil society activists, interrogating and beating them for information about their organizations' activities, and then releasing them the next day without charge.

Although the Criminal Procedures and Evidence Act (CPEA) substantially reduces the power of magistrates to grant bail without the consent of the attorney general or his agents, a circular issued by the attorney general giving a general authority to grant bail lessened the negative effect of the law in practice. High court judges at times granted bail independently. The act allows police to hold persons suspected of committing economic crimes for up to four weeks without bail.

In 2008 Johannes Tomana, then deputy attorney general, announced that the Attorney General's Office would "deny bail to all suspects arrested on charges of either committing or inciting political violence." In some cases those arrested and denied bail were kept detained for weeks or months. In other cases police continued to hold persons in jail even after a judge had granted bail or dropped the charges. Prosecutors routinely invoked section 121 of the CPEA, which automatically provides the government seven days to file an appeal against a ruling granting bail. Zimbabwe Lawyers for Human Rights (ZLHR) condemned the repeated invocation of section 121 and described it as the most abused provision used by the government to prolong the detention of political opponents. On June 17, ZLHR attorney Alec Muchadehama filed an application for referral to the Supreme Court to challenge the constitutionality of section 121 of the CPEA. On June 23, a magistrate referred Muchadehama's case to the Supreme Court; it was pending at year's end.

Authorities often did not allow detainees prompt or regular access to their lawyers and often informed lawyers who attempted to visit their clients that detainees were "not available," especially in cases involving opposition members and civil society activists. Family members sometimes were denied access unless accompanied by an attorney. Detainees were often held incommunicado.

Family members and attorneys often were denied access to detainees in prison and could not verify that a person had been arrested until the individual appeared in court (see section 1.c.).

The government continued to use arbitrary arrest and detention as a tool of intimidation and harassment, especially against opposition members and supporters, civil society activists, student activists, and journalists.

There were reports that victims of theft during 2008 political violence were detained or charged with extortion or theft when attempting to recoup their property. Between February 11 and 13, at least 59 citizens were arrested in Mutoko on charges of robbery after attempting to recover property from ZANU-PF bases where perceived MDC supporters were beaten and intimidated during the 2008 election. The stolen property included livestock that was subsequently eaten by those who ran the bases. The theft victims had approached the ZANU-PF supporters who stole their goods and asked for the return of their property or appropriate compensation. Many of those who took property in 2008 admitted they had done so, and several signed proofs of resolution of any outstanding disputes after returning animals to the MDC supporters. On February 18, the Mutoko magistrate recused himself from the case after facing pressure from police who wanted him to deny bail. The recusal forced the case's transfer to a Marondera court, where the prosecutor suggested the accused be released while police further investigated the matter. That night, without any legal authority, police in Marondera detained the group in jail. On February 19, police denied lawyers access to their clients and refused to explain why they were still in jail. Detective Inspector Chimimba told lawyers they were taking the

accused persons back to Mutoko and that the lawyers should wait until the following day for further information about their clients. On February 20, Chimimba initially refused lawyers access to their clients. After an hour she relented and had allowed a brief meeting when, without explanation, the accused were rushed back to Marondera where their cases were heard by two magistrates. One magistrate postponed any decisions on bail to February 23. Another magistrate granted bail to some of the accused. Those who were granted bail were taken back into custody after the prosecutors invoked section 121 of the CPEA. In the end all 59 accused persons remained in custody. During the following week, some of the 59 were released when the government failed to appeal within seven days. On March 9, a magistrate in Marondera removed the cases from remand, which effectively removed them from the court's list of pending cases, although the prosecution can summon the defendants back to court through a trial summons. By removing the case from remand, the magistrate freed the last 45 detainees who remained in jail. During the hearing the prosecutor affirmed that investigating police had acted against their professional opinion to follow instructions from the director of public prosecutions, Florence Ziyambi, to ensure accused persons remained in custody. At year's end the cases were pending trial at the Mutoko Magistrates' Court.

On February 27, 88 persons from Nyanga were arrested and charged with extortion after they attempted to retrieve property and livestock seized by ZANU-PF supporters in 2008. The villagers, perceived to be MDC supporters, were targeted in the period prior to the 2008 election and lost cattle, goats, chickens, ploughs, and food stocks harvested from their fields. There was no intervention from the government to ensure a return of the looted property and no compensation to the villagers. Prior to their arrest, the villagers approached the looters from Chifambe village and demanded that their property be returned. They were released on bail on February 28. The villagers alleged that the ZANU-PF supporters used their food to feed militias camped in the nearby bases of Chawagonahapana and Avilla Business Centre in Katerere. The magistrate removed the case from remand after the prosecutors failed to be prepared for trial in October.

During the year police arrested numerous leaders of the MDC on trumped-up charges. On February 13, Roy Bennett, MDC-T treasurer, was taken by police from Prince Charles Airport in Harare to the eastern city of Mutare, where he was jailed. On February 13 and 14, police forcibly expelled Bennett's lawyers when they attempted to see Bennett. On February 15, police charged Bennett with insurgency, and on February 16, they charged him with attempting to violate the Immigration Act and issued a warrant of further detention without informing Bennett's lawyers, despite their presence at the courthouse. On February 17, police further charged Bennett with allegedly possessing weaponry with the intention of using it in connection with acts of insurgency. Bennett denied all three charges. On February 24, High Court Judge Tedi Karwi granted Bennett bail, but the government invoked section 121 of the CPEA to appeal. During a routine bail hearing on March 4, Magistrate Livingstone Chipadza approved Bennett's release on \$5,000 bail; however, the government argued that an appeal was pending in a superior court. On March 5, Supreme Court Judge Paddington Garwe ruled that the government could appeal the February 24 issuance of bail. On March 11, Chief Justice Godfrey Chidzasisiku dismissed the appeal. Bennett was released on March 12. After several delays, Bennett's trial began on November 9 in the High Court and continued at year's end.

The government continued its harassment and intimidation of human rights lawyers during the year. Police often threatened lawyers when they attempted to gain access to their clients in police custody. Several lawyers were arrested in connection with legal advice they provided to their clients. On November 2, police arrested human rights lawyer Mordecai Mahlangu and charged him with obstruction of justice after he wrote Attorney General Tomana a letter on behalf of his client Peter Hitschmann, who had been subpoenaed to testify against MDC-T Treasurer Roy Bennett in his trial. On November 3, Mahlangu was released on bail after spending a night in jail. His case was pending at year's end.

On June 16, MDC-T Director General Toendepi Shonhe was arrested and charged with perjury for falsely stating in a high court affidavit that government security agents had abducted three MDC members. Shonhe made the statement shortly after three MDC activists were abducted from their homes in Banket in early June. After they were located, Shonhe withdrew his statement from the court. On June 18, a magistrate granted Shonhe bail; however, the government invoked section 121 of the CPEA. On June 26, a high court judge dismissed the government's appeal, resulting in Shonhe's release from Harare remand prison. On August 17, a magistrate acquitted Shonhe of all charges.

During the year civil society reported that numerous arrests of MDC-T parliamentarians were politically motivated and meant to erode the MDC-T's voting power in

Parliament and to harass MDC-T parliamentarians. Section 42 of the constitution states that upon the sentencing of a legislator to death or a jail term of six months or more, “such member shall cease forthwith to exercise his functions...and his seat shall become vacant at the expiration of 30 days from the date of such sentence.” Police arrested at least 17 MPs during the year; at least 15 were from the MDC-T party. At least four MPs were suspended after they were sentenced for jail terms of more than six months; however, all four appealed their suspensions in the High Court. The MPs were allowed to retain their seats during the appeal process, which was pending at year’s end.

For example, on January 15, police arrested Meki Makuyana, MP for Chipinge South, and charged him with kidnapping two ZANU-PF supporters. On January 29, Makuyana was granted bail; on July 9, a magistrate found him guilty and sentenced him to 18 months in prison with hard labor, with six months suspended. He was granted bail on July 30 and allowed to retain his seat pending appeal; the case continued at year’s end.

On April 10, police arrested Mathias Mlambo, MP for Chipinge East, and charged him with defeating the course of justice; he was granted bail on May 2. The charges arose after Mlambo attended a funeral on April 2 and allegedly prevented police from arresting someone at the funeral. Mlambo was sentenced on May 22 to 10 months’ imprisonment; however, he was released the same day on bail pending appeal. On July 16, Parliament suspended Mlambo from his seat; at year’s end his appeal had not been heard.

On July 27, a Mutare magistrate found MP for Mutare West Shua Mudiwa guilty of kidnapping a 12-year-old girl in 2007 and sentenced him to seven years in jail. Two years and six months of the sentence were suspended. Mudiwa’s appeal to the High Court was pending at year’s end. Because his sentence exceeded six months, Parliament suspended Mudiwa on July 16.

There were developments in three cases reported in 2008. On February 6, Magistrate Olivia Mariga stated that prosecutors appeared unprepared to proceed against MDC-T Secretary General and MP Tendai Biti for treason; Mariga removed his case from remand and advised that police could summon him to trial when they were ready. The ruling effectively removed Biti’s case from the court’s schedule but did not eliminate the charges against him. Mariga also ruled that Biti had been improperly arrested at the Harare International Airport upon his return from South Africa in June 2008. His whereabouts were unknown for two weeks until police brought him to court and the government charged him with treason, which carries the death penalty. On February 13, Biti began serving as the finance minister of the inclusive government.

On May 26, a magistrate acquitted MDC-T MP for Buhera West and Minister of Constitutional Affairs Eric Matinenga of allegedly inciting public violence. Matinenga, a lawyer, was arrested in May 2008 when he visited a police station to investigate the arrest a client.

On June 4, WOZA leaders Jenni Williams and Magodonga Mahlangu appeared in the Supreme Court after filing an appeal arguing that they were unlawfully arrested on charges of disturbing the peace in October 2008. The court promised to issue a ruling before the women’s scheduled trial date of July 7; however, at year’s end the court had not done so.

There were no developments in the arrest cases reported in 2007.

Prolonged pretrial detention remained a problem, and some detainees were incarcerated for several years before trial or sentencing because of a critical shortage of magistrates and court interpreters, poor bureaucratic procedures, and for political reasons. During the year some detainees in Harare Remand Prison went months without attending court for bail hearings because the ZPS lacked fuel to provide transport. Others who had bail set but could not afford to pay remained in detention. According to lawyers, pretrial detainees were held without charge for as long as 11 years. Women received longer prison sentences than men (see section 1.c.). Lawyers also reported that juveniles usually spent more time in pretrial detention than adults because they could not attend court unless a parent or guardian accompanied them; however the government did not routinely notify parents when a juvenile was arrested.

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary; however, the judiciary was under intense pressure to conform to government policies, and the government repeatedly refused to abide by judicial decisions. The government routinely delayed payment of court costs or judgments awarded against it in civil cases.

The law provides for a unitary court system consisting of headmen’s courts, chiefs’ courts, magistrates’ courts, the High Court, and the Supreme Court. Victim-friendly courts, which had jurisdiction over children and victims of sexual abuse, had spe-

cially trained magistrates and prosecutors and equipment that allow victims to testify without being seen. Civil and customary law cases may be heard at all levels of the judiciary, including the Supreme Court.

Military courts deal with court martial and disciplinary proceedings only for military personnel. Police courts, which can sentence a police officer to confinement in a camp or demotion, handle disciplinary and misconduct cases. Defendants in these courts have the right to appeal to the Supreme Court. Military and police courts provide the same rights as civil criminal courts.

Judges are appointed to serve until the age of 65 and may extend their terms until the age of 70 if they remain in good physical and mental health as certified by a physician and receive presidential approval in consultation with the Judicial Services Commission. The constitution provides that they may be removed from the bench only for gross misconduct and that they cannot be discharged or transferred for political reasons. In November 2008 HRW reported on several methods the government used to undermine the independence of the judiciary, including giving farms and homes to judges. Also in 2008 the government newspaper *The Herald* reported that the Reserve Bank had given judges luxury cars, plasma televisions, and electricity generators.

Magistrates, who are part of the civil service rather than the judiciary, heard the vast majority of cases. Legal experts said that defendants in politically sensitive cases were more likely to receive a fair hearing in magistrates' lower courts than in higher courts, where justices were more likely to make political decisions. According to a November 2008 HRW report, most junior magistrates and magistrates in rural areas did not benefit from government patronage. Instead, government sympathizers relied on threats and intimidation to force magistrates, particularly rural magistrates, to rule in the government's favor. Some urban-based junior magistrates demonstrated a greater degree of independence and granted MDC and civil society activists bail against the government's wishes. Other judicial officers, such as prosecutors and private attorneys, also faced political pressure, including harassment and intimidation. During the year numerous lawyers and court officers were arrested on criminal charges after taking action that some in government opposed.

For example, on March 5, Manicaland Provincial Magistrate Livingstone Chipadza was arrested on charges of criminal abuse of office the day after signing the warrant of release for MDC-T treasurer Roy Bennett, who had been granted bail by the High Court. Chipadza spent two nights in jail before being released on bail. His trial began in July; on August 4, he was acquitted. The court ruled that the government had not provided any evidence to show that Chipadza had committed a crime.

On May 6, police arrested Constance Gambara, the clerk for High Court Judge Justice Chinembiri Bhunu, and held her and her nine-month-old child at Chikurubi Maximum Security Prison until she was granted bail on May 14. Gambara was charged with criminal abuse of public office after she typed the warrant of release for 2008 abductees Chris Dhlamini, Ghandi Mudzingwa, and Andrisson Manyere on April 17 (see section 1.b.). On May 14, police also arrested lawyer Alec Muchadehama and charged him with obstruction of justice for assisting with the release of Dhlamini, Mudzingwa, and Manyere. Muchadehama was held in jail overnight and released on bail the following day.

On October 22, during Muchadehama and Gambara's trial, Magistrate Chioniso Mutongi found prosecutor Andrew Kumire in contempt of court and sentenced him to five days in prison after Kumire repeatedly disobeyed the magistrate's orders. The prosecutor fled to the Attorney General's Office, where prison guards arrested him and brought him back to court. However, Kumire appealed to a different magistrate for bail, who granted it. Kumire then appealed the conviction to the High Court; on October 26, Judge Tedi Karwi dismissed the appeal. The case was then transferred to another magistrate and was pending at year's end. On November 3, Mutongi resigned her position, citing interference and threats to her life in connection with the Kumire case. On November 21, Kumire was promoted to Area Public Prosecutor for Harare. On December 11, Magistrate Fadza Mthombeni acquitted Muchadehama and Gambara of all charges.

There were no updates in any of the 2008 cases involving lawyers or court officials.

Trial Procedures.—The constitution provides for the right to a fair trial; however, this right frequently was compromised in practice due to political pressures. Defendants enjoy a presumption of innocence under the law; however, this was not always respected in practice. Trials were held by magistrates or judges without juries and were open to the public, except in certain security cases. Every defendant has the right to a lawyer of his or her choosing, but most defendants in magistrates' courts did not have legal representation. In criminal cases an indigent defendant may

apply to have the government provide an attorney, but this was rarely granted except in capital cases, where the government provided an attorney for all defendants unable to afford one. Litigants in civil cases may request free legal assistance from the Legal Resources Foundation or ZLHR.

Attorneys sometimes were denied access to their clients, especially in cases involving opposition members or civil society activists. Defendants have the right to present witnesses, present evidence in their own behalf, and question witnesses against them. However, these rights were not always observed in practice. While defendants and their attorneys sometimes had access to government-held evidence relevant to their cases, this was often not allowed in politically sensitive cases. The right to appeal exists in all cases, and is automatic in cases in which the death penalty is imposed. The law extends these rights to all citizens; however, in politically sensitive cases these rights not always protected in practice. Government officials frequently ignored court orders in such cases, delayed bail and access to medical care, and refused to enforce court orders related to land disputes.

Political Prisoners and Detainees.—There were dozens of reports of political detainees throughout the year, including opposition officials, their supporters, NGO workers, and civil society activists. Many were held for one or two days and released, others were held for weeks or months. During the year police severely beat and tortured numerous opposition, civil society, and student leaders while in detention.

At year's end there were no known political prisoners in police custody.

Civil Judicial Procedures and Remedies.—There was an independent and impartial judiciary in civil matters; however, in practice the judiciary showed indications of being politically influenced or intimidated in cases involving high-ranking government officials, politically connected persons, or violations of human rights. There were systematic problems enforcing domestic court orders, as resources for the judiciary and police were severely strained.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and law prohibit such actions, but the government did not respect these provisions in practice. Security forces searched homes and offices without warrants, the government pressured local chiefs and ZANU-PF loyalists to monitor and report on suspected opposition supporters, and the government forcibly displaced persons from their homes. Elements of the government coerced ZANU-PF supporters and punished opposition supporters by manipulating the distribution of food aid, agricultural inputs, and access to other government assistance programs.

In 2007 the president signed into law the Interception of Communications Act (ICA) to provide for the interception and monitoring of any communication (including telephone, postal mail, e-mail, and Internet traffic) in the course of transmission through a telecommunication, postal, or other system in the country. Civil liberties advocates criticized the ICA as repressive legislation that allows the government to stifle freedom of speech and to target opposition and civil society activists. In 2008 the Chief Executive Officer of the state-run Zimpapers secretly monitored subordinates' private e-mails for political content.

In 2005 the government embarked on Operation Murambatsvina (loosely translated from Shona as "Restore Order" or "Get Rid of the Filth") without prior notice, during which more than 700,000 persons lost their homes, their means of livelihood, or both through a program of forced evictions. The government's stated reason for the operation was to curb illegal economic activities and crime in slums and illegal settlements in several cities and towns, but it made no provision for the victims of its policy. Those who returned to rural areas often faced unemployment, food shortages, and other economic and social stresses. According to the Amnesty International report *Zimbabwe: Between a Rock and a Hard Place*—Women Human Rights Defenders at Risk, the operation resulted in the destruction of more than 32,500 small businesses across the country and the loss of livelihood for more than 97,550 persons, most of whom were women. An estimated 300,000 children lost access to education as a result of displacement. The operation disrupted access to medical care, particularly for HIV/AIDS patients. The government reportedly prevented or interfered with UN and other humanitarian organizations' efforts to provide shelter and food assistance. The government's actions were widely condemned by local civil society organizations and the international community.

The 2008 HRW report *Neighbors in Need: Zimbabweans Seeking Refuge in South Africa* detailed the struggles of the estimated 1.5 million Zimbabweans living illegally in South Africa. The report noted that a significant but unknown portion of them were displaced by Operation Murambatsvina.

According to local human rights and humanitarian NGOs, sporadic evictions, which were often violent, continued during the year, especially of tenants and infor-

mal vendors suspected of supporting the opposition. On November 9, Godfrey Tonde, an informal vendor, was killed in Mbare, a high-density area of Harare. According to press reports, police officer Anos Zharare targeted and chased Tonde while dispersing informal vendors. Tonde reportedly died due to injuries sustained from a fall after Zharare tripped him. Zharare was arrested and charged with murder; the case was pending at year's end. No action was taken against security forces involved in 2008 forced evictions.

Land seizures, often violent, remained a serious problem. Constitutional amendment 17, enacted in 2005, transferred title of all land previously acquired for resettlement purposes to the government, prohibited court challenges to the acquisitions, and allowed the government to acquire any agricultural land for any purpose simply by publishing a notice of acquisition. In 2006 the Gazetted Land (Consequential Provisions) Act passed into law, requiring all farmers whose land was forcibly seized by the government—and who were not in possession of an official offer letter, permit, or lease—to cease to occupy, hold, or use that land within 45 days and to vacate their homes within 90 days. Only a small number of farmers received an offer letter or lease. Failure to comply is a criminal offense punishable by a fine and a maximum prison sentence of up to two years. The Act was primarily used to target the 4,500 large-scale and primarily white-owned farms in the country for seizure and redistribution to ZANU-PF supporters.

In 2007 Didymus Mutasa, then minister for lands, land reform, and resettlement, announced that the government was going to take action to seize the remaining estimated 400 white-owned farms for resettlement. The announcement was followed by a sharp increase in invasions, evictions, and arrests of farm owners and workers. Several farmers subsequently appealed to the Supreme Court to declare the eviction notices unconstitutional.

In 2007 the Southern African Development Community (SADC) tribunal in Namibia, in its first decision since its establishment in 2000, ruled in favor of Michael Campbell, who was contesting the compulsory government acquisition of his farm. The tribunal was set up to ensure that SADC member states, including Zimbabwe, adhere to the SADC treaty and protocols, protect the rights of citizens, and ensure the rule of law. According to the protocol establishing the tribunal, a person can bring a case after exhausting all available remedies or when unable to proceed under domestic jurisdiction. Campbell brought the case to the tribunal after the Supreme Court in Zimbabwe failed to issue a judgment on the case. The tribunal issued an interim protective order, which prohibited the government from evicting or allowing the eviction of or interference with the farm pending a decision by the tribunal; government representatives told the three-member tribunal it would abide by the decision. However, in January 2008 the Zimbabwe Supreme Court issued a judgment dismissing the Campbell case. Soon after the ruling, Mutasa declared that the country would be bound only by its laws and decisions of its superior courts.

In April 2008 the SADC tribunal ruled that more than 70 white farmers who had been evicted from their lands could remain on their property pending a May 2008 hearing; their cases effectively joined the Campbell case that was still pending before the tribunal. In June 2008 a group of 20 “war veterans” abducted and assaulted Michael Campbell and members of his family; they were hospitalized for their injuries. The perpetrators also looted the Campbell home and stole their car. In July 2008 the tribunal reaffirmed the injunction, condemning the government's recent land seizures and turning the issue over to the SADC summit for further action. However, the government asserted that it would move forward with prosecutions of the farmers who remained on the land, effectively ignoring the tribunal's authority.

In November 2008 the SADC tribunal ruled in favor of the 79 farmers in the Campbell case, finding that by barring titleholders from being heard in Zimbabwe's courts, the government violated the rule of law; the farmers were discriminated against on the basis of race; and the government should compensate three dispossessed landowners by June 30, 2009. Although the tribunal ordered the government not to interfere with any tribunal applicant still on his or her land or in possession of it when applying for relief, the government continued prosecutions of farmers for remaining on state-confiscated farms during the year.

In an August 7 letter, Minister of Justice Patrick Chinamasa informed the SADC tribunal that the country was pulling out of the tribunal. Chinamasa claimed that because the SADC Protocol on the Tribunal was not ratified by two-thirds of SADC membership, the tribunal was not validly constituted and therefore had no jurisdiction over the country. Lawyers from across SADC argued that the SADC treaty was amended in 2001 to incorporate it into SADC as an integral organ and exclude the tribunal from the usual SADC requirement for ratification by two-thirds.

Disruptions at farms and seizures of property increased during the year and were often violent. ZANU-PF supporters invaded numerous farms involved in the SADC

case and stole crops, farming materials, and personal property of the farmers and farm workers. Tens of thousands of black farm workers on white-owned farms were beaten, intimidated, or displaced (see section 2.d.).

For example, although Richard Etheredge, the owner of Stockdale farm near Chegutu, was found innocent of charges of refusing to vacate his farm in February, on March 5, ZANU-PF youths and “war veterans” forced the Etheredges and many of their 400 employees and their families to vacate their farm. The perpetrators acted at the behest of Senate President and ZANU-PF MP Edna Madzongwe, whose daughter moved onto the farm after the Etheredges were displaced. The Etheredges were party to the Campbell case in the SADC tribunal, and an offer letter that the government issued to Madzongwe in 2007 was found invalid by a court. On April 12, Madzongwe’s guards beat to death a local man for allegedly stealing oranges from the farm. According to a medical report, the man’s spine was broken in three places. Police detained three of Madzongwe’s guards and two former employees of the Etheredges’ for questioning; they were later released without charge. On April 17, Deputy Prime Minister Arthur Mutambara toured several farms under dispute, including Stockdale, and told the press, “We will not tolerate any government official who is promoting lawlessness in our country.” On April 21, police guarding the farm shot two of the Etheredge’s farmworkers when they attempted to return to the farm with Peter and James Etheredge. The men were shot while lying in the bed of the Etheredges’ truck as they left the farm, and one worker sustained a serious bullet wound to the leg. Police then arrested Peter Etheredge and threatened to charge him with disorderly conduct and inciting violence; he was released four days later without charge.

Campbell’s Chegutu farm, Mount Carmel, continued to experience similar problems throughout the year as a result of Campbell’s role, along with that of his son-in-law Ben Freeth, in the SADC tribunal case. On March 9, a local representative of the Ministry of Lands and Rural Resettlement arrived at the farm with police, CIO officers, and Peter Chamada, who claimed to be the son of ZANU-PF Spokesman Nathan Shamuyarira. Chamada showed Freeth an offer letter that listed Shamuyarira as the owner of Mount Carmel and refused to acknowledge court orders protecting the Freeth’s claim. “War veteran” Lovemore Madangonga (known as “Landmine”) led a group of youths and “war veterans” on numerous subsequent invasions of the property for varying periods. During one occupation on April 10, Freeth visited the farm where Madangonga was selling the mango crop from Freeth’s farm for his own personal benefit. At least 50 tons of export-quality mangoes were rotting in the farm’s shed. On August 30, Freeth’s home burned in a fire that may have been arson. On September 2, Campbell’s home was destroyed in another apparent arson attack, during which war veterans stole items from Freeth’s car as he attempted to put out the fire. By year’s end police had not investigated the fires. On September 9, police detonated several explosions on the property; they later claimed they were detonating weapons caches found on the farm. After the release of the documentary *Mugabe and the White African* about the continuing dispute at the farm, police on September 14 detained Freeth and the al Jazeera news crew accompanying him after claiming the group had strayed into a sealed-off crime scene at the farm; all were later released.

No action was taken against perpetrators of numerous 2008 and 2007 cases of land invasions, seizures of property, and attacks on farm owners and workers.

No action was taken or anticipated in the numerous other reported 2008 and 2007 cases of arbitrary interference with citizens’ homes.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of speech and of the press, but legislation limits these freedoms in the “interest of defense, public safety, public order, state economic interests, public morality, and public health.” The government restricted these rights in practice. Journalists and publishers practiced self-censorship.

The Ministry of Media, Information, and Publicity (MMIP), headed by Webster Shamu, continued to restrict freedom of speech, particularly of those making or publicizing comments critical of President Mugabe. The ICA continued to be used to monitor speech and to punish those who criticized the government. Under authority of the Official Secrets Act, the Public Order and Security Act (POSA), or the Criminal Law Act, the government arrested individuals for criticizing President Mugabe in public.

There were credible reports that CIO agents and informers routinely monitored political and other meetings. Persons deemed critical of the government were frequently targeted for harassment, abduction, and torture. On October 10, police arrested student leaders Clever Bere, Blessing Vava, Obert Masaraure, Kurayi Hoyi,

and Tafadzwa Kutya, after one of the students remarked that President Mugabe was stalling progress on establishing an inclusive government. The students were taken to Harare Central Police station, where they were detained for two days and beaten with whips, fists, and batons. The group was charged with misconduct and undermining the office of the president; the case was pending at year's end.

The government continued to restrict freedom of the press. The MMIP controlled the state-run media, including the two daily newspapers, the *Chronicle* and the *Herald*, and a new daily, *Harare Metro*. Government-controlled media generally portrayed the activities of ZANU-PF officials positively, portrayed other parties and antigovernment groups negatively, and downplayed events or information that reflected adversely on the government. High-ranking ZANU-PF officials, including President Mugabe, used the media to threaten violence against critics of the government.

There were three main independent domestic weekly newspapers, The Zimbabwean, the Zimbabwe Independent, and the Standard, and a semi-independent weekly newspaper, the Financial Gazette, all of which continued to operate despite threats and pressure from the government. The independent newspapers continued to criticize the government and ZANU-PF; however, they also continued to exercise some self-censorship due to government intimidation, a reluctance to criticize the MDC-T for fear of further strengthening ZANU-PF, and the continuing prospect of prosecution under criminal libel and security laws.

Radio remained the principal medium of public communication, particularly for the rural majority. The government controlled all domestic radio broadcasting stations through the state-owned Zimbabwe Broadcasting Holdings, supervised by the MMIP. The popularity of independent short-wave and medium-wave radio broadcasts to the country continued to grow, despite government jamming of news broadcasts by radio stations based in other countries, including Voice of America's (VOA) Studio 7 and SW Radio Africa. The government controlled the only domestically based television broadcasting station, the Zimbabwean Broadcasting Corporation. International satellite television broadcasts were available through private firms but too expensive for most citizens.

After years of using accreditation laws to prevent most major international media outlets and some local journalists from covering the country's elections, in July the government allowed CNN and BBC film crews back into the country. However, foreign journalists continued to report that government agents followed them and prevented them from covering certain news events. Senior ZANU-PF officials repeatedly criticized both local and foreign independent media for what they deemed biased reporting meant to discredit President Mugabe and misrepresent the country's political and economic conditions. For example, in September army commander Lieutenant-General Philip Sibanda accused private radio stations and NGOs of waging "asymmetric" warfare against the government by spreading hate messages that he claimed would lead to "rioting, despondency, and eventually cause war." Sibanda stated that Western countries were using "disinformation" through "pirate radio stations," citing VOA's Studio 7.

On October 20, security officials in Harare from the President's Office detained an al Jazeera news crew as they were filming outside the Munhumutapa Building, where the prime minister's office and cabinet room are located. Reporter Haru Mutasa and camera operator Austin Gundani were interrogated for approximately three hours. They were later transferred to Harare Central Police Station, where they were released without charge. The crew was outside the building to cover events in the wake of a highly-publicized MDC-T decision not to attend cabinet meetings.

Security forces arbitrarily harassed and arrested local and foreign journalists who contributed to published stories critical of government policies or security force operations. On March 17, police arrested editor Brezhnev Malaba and reporter Nduduzo Tshuma of The Chronicle, the government-controlled daily newspaper in Bulawayo, after they published a story alleging police involvement in a Grain Marketing Board corn scandal. On April 7, Bulawayo magistrate John Masimba charged the two with defamation under the Criminal Law Codification and Reform Act; the case was pending at year's end.

On May 11, police arrested Zimbabwe Independent editors Constantine Chimakure and Vincent Kahiya for publishing a May 8 story that revealed the role and names of police and intelligence agents in the abduction of human rights activists (see section 1.b.). The two were charged with publishing or communicating a statement with the intention of undermining public confidence in law enforcement agents under the criminal code. The information in the article had already been revealed in public court indictments filed on May 4 in the case of activists abducted in 2008. Chimakure and Kahiya were granted bail on May 12; on July 30, a Harare

magistrate agreed to refer the matter to the Supreme Court, and the case was pending at year's end.

On October 8, police arrested freelance journalist Annie Mpalume in Manicaland Province's Chiadzwa diamond fields on allegations of entering a protected area without a pass. Mpalume was detained overnight in Chiadzwa before being transferred to Mutare Central Prison, where she was detained for four days. Mpalume was charged with violating the Protected Areas Act and released on bail; the case was pending at year's end.

In the 2008 case of the government seizure of a satellite truck and camera belonging to the South African company GlobeCast Satellite, a magistrate ruled in favor of the company, and the police subsequently returned their equipment in July.

On July 14, a magistrate dismissed the April 2008 public violence charges against freelance journalists Frank Chikwore and Luke Tamborinyoka for lack of evidence.

There were no developments in the May 2008 bombing case of a truck belonging to The Zimbabwean. Government and ZANU-PF officials continued to display open hostility towards the newspaper, labeling it part of what they called the "regime change" agenda.

The May 2008 case involving Davison Maruziva, editor of The Standard, for publishing an opinion article critical of President Mugabe, was pending in the Supreme Court at year's end.

There were no developments in the 2007 cases of harassment, abuse, and detention of journalists.

Journalists and publishers continued to practice self-censorship as a result of government action and threats. There were credible reports that the permanent secretary of the MMIP, George Charamba, routinely reviewed state-owned media news and excised reports on the activities of groups critical of the government. For example, on October 23, the independent media reported that the ministry ordered government-controlled print and electronic media to stop reporting on MDC ministers until the party reversed its decision to suspend contact with ZANU-PF. In November local NGOs reported that three managers at Zimbabwe Broadcasting Holdings had been suspended for 10 days for allegedly leaking information on the order.

The government continued to use the Access to Information and Privacy Protection Act (AIPPA) to serve as the primary justification to control media content and licensing of journalists. The main provisions of the law give the government extensive powers to control the media and suppress free speech by requiring the registration of journalists and prohibiting the "abuse of free expression." In January 2008 the government amended AIPPA in order to abolish the Media and Information Commission (MIC). During its existence the MIC, under the MMIP, denied many local and foreign journalists accreditation. However, in 2008 MMIP officials continued to demand MIC accreditation from journalists. On May 28, High Court Judge Bharat Patel overruled the MMIP and found for applicants Stanley Gama, Valentine Maponga, Jealous Mawarire, and Stanley Kwenda, all freelance journalists, stating that MIC was abolished in January 2008. Patel ordered the MMIP minister and permanent secretary to retract statements that journalists had to register with MIC to cover an upcoming Common Market for Eastern and Southern Africa (COMESA) summit and also ordered them to place notices to that effect in the media. Patel stated that his ruling would have effect notwithstanding any government appeal. However, security officials at the June 7 COMESA summit refused the journalists entry, claiming they could grant entry only to those on the list provided by the ministry.

In May the MMIP convened a media conference and pledged to repeal AIPPA. At least four independent newspapers, including the Daily News, had been shut down since its enactment in 2002. No further action to repeal the law had been taken by year's end.

Amendment 19 of the constitution provides for the establishment of the Zimbabwe Media Commission (ZMC), a statutory media regulatory body, to succeed the MIC and oversee media regulation, registration, and accreditation. On August 18, the Parliamentary Standing Rules and Orders Committee announced that it had selected 12 candidates for the ZMC to forward to the president. According to amendment 19, the president should then appoint nine persons from the list of 12 to serve on the ZMC, and three of the remaining six nominees to serve on the Broadcasting Authority of Zimbabwe (BAZ), the regulatory body that licenses radio and television stations. At year's end neither committee was formally constituted.

In its annual meeting in July in Libya, the African Commission on Human and Peoples' Rights (ACHPR) ruled that the Zimbabwean government should repeal sections 79 and 80 of AIPPA because they contravene article 9 of the African Charter on Human and Peoples' Rights. Section 79 addresses compulsory accreditation requirements for journalists and optional accreditation for part-time or freelance jour-

nalists. It prohibits the permanent accreditation of noncitizens, although they may be granted temporary accreditation for a period not exceeding 60 days. Section 80 addresses abuse of journalistic privileges in relation to publication of falsehoods and injurious statements. The ACHPR also ruled that statutory media regulation was contrary to the principle of media self-regulation as enunciated under the African Charter to which Zimbabwe is a party. The government took no action by year's end to comply.

In January the government published application and registration fees for mass media services that were significantly higher than the regional norm and described by civic and media groups as exorbitant. For example, foreign media houses wishing to establish a representative office were required to pay an application fee of \$10,000, an additional \$20,000 for permission to operate, and \$2,000 in administration fees. Local journalists working for foreign media organisations were required to pay \$1,000 and \$3,000 as individual application and accreditation fees, respectively. Temporary accreditation for a foreign journalist was \$1,500. This contrasts sharply with the accreditation and administration fees for journalists working in the rest of SADC, which were \$150 and \$200 respectively.

ZANU-PF elements of the government continued to politicize licensure of media outlets. In March a private company, Zimind Publishers, applied for a license to start the daily *Newsday*; at year's end Zimind was still waiting for a license to print. On October 7, Charamba threatened *Newsday* editor Barnabas Thondlana with arrest if the newspaper began publishing without a license.

On August 7, the BAZ issued regulations for television and radio but did not invite applications for new broadcasting licenses as required by the law. The new regulations announced high fees for broadcasters.

On September 7, the government-controlled media group, the Zimbabwe Newspapers Private Limited, launched the daily newspaper *Harare Metro*. Civic organizations, including the NGO Media Institute of Southern Africa, argued that the government had used its "political prerogative to expand state-funded newspapers in the country to the distinct disadvantage of other media players awaiting licensing."

The Broadcasting Services Act, which Parliament's legal committee found to be unconstitutional when it was passed in 2001, was amended in January 2008 to give the BAZ autonomy over allocation of licenses. The amendment also eased foreign funding restrictions, although it left the determination of how much foreign funding should be allowed to the discretion of the MMIP minister. During the year Deputy Minister of the MMIP Jameson Timba stated that the frequency spectrum allocated to BAZ by the Postal and Telecommunications Regulatory Authority allowed for over 30 commercial radio and an additional four television stations. Independent journalists welcomed Timba's statements as the government had historically limited alternative television and radio options.

In 2006 the government passed the General Laws Amendment Act (GLAA), which amended sections of POSA to allow authorities to monitor and censor "the publication of false statements that will engender feelings of hostility towards—or cause hatred, contempt, or ridicule of—the president or acting president." The GLAA recommends a prison term for any journalist who "insults the president or communicates falsehoods."

The criminal code makes it an offense to publish or communicate false statements prejudicial to the state. Legal experts have criticized this section saying that it imposes limits on freedom of expression beyond those permitted by the constitution.

The extremely broad Official Secrets Act makes it a crime to divulge any information acquired in the course of official duties. In addition, antidefamation laws criminalize libel of both public and private persons.

POSA and the criminal code grant the government a wide range of legal powers to prosecute persons for political and security crimes that are not clearly defined. The 2006 enactment of the amended criminal code consolidated a variety of criminal offenses, including crimes against public order, reportedly to amend progressive portions of POSA. However, the Institute for Justice and Reconciliation and the Solidarity Peace Trust reported that almost all the offenses in POSA were transferred to the criminal code, in some cases with drastic increases in penalties for violations. For example, since the transfer, making a false statement prejudicial to the state now carries a maximum prison sentence of 20 years. Failure to give police the requisite advance written notice of a meeting or demonstration remains an offense under POSA.

In July Minister of Finance Tendai Biti removed the 40 percent import tax on all foreign newspapers imposed by ZANU-PF in June 2008. Several newspapers published in South Africa subsequently began circulating in Zimbabwe. The removal of the tax encouraged a number of Zimbabweans to publish newspapers from outside the country. These included the *Zim Star* and the *News Leader*.

In the September 2008 GPA that led to the formation of the inclusive government, all parties agreed to ensure the immediate processing of all applications for reregistration of media houses and new registrations. However, at year's end a system to register new independent media organizations had not yet been established.

Internet Freedom.—There were no government restrictions on the Internet; however, the ICA permits the government to monitor all communications in the country, including Internet transmissions. Internet access was available, but due to a lack of infrastructure it was not widely accessed by the public beyond commercial centers. According to International Telecommunication Union statistics for 2008, approximately 11.4 percent of the country's inhabitants used the Internet.

Academic Freedom and Cultural Events.—The government continued to restrict academic freedom. The president is the chancellor of all five state-run universities and appoints all vice chancellors. The government has oversight of all higher education policy at public universities. The University of Zimbabwe Amendment Act and the National Council for Higher Education Act restrict the independence of universities, subjecting them to government influence and extending the disciplinary powers of the university authorities over staff and students. The 2006 National Council for Higher Education Act mandated the establishment of a nine-member council made up of members of the higher education community from both public and private institutions. The council advises the minister of higher and tertiary education on matters pertaining to education, including funding for higher education and accreditation of higher education institutions. The minister, however, selects and appoints the council members, controls state universities, and nominates vice chancellors; the minister also appoints the deans of faculty, and most members of the university council. The appointed deans and heads of departments require faculty to submit final examinations well in advance of the end of term and have the right to censure exam content if they feel it is too controversial or threatens "sovereignty and national interest." During the year some lecturers were asked to revise final exams, and department chairs rewrote exam questions before they were given to students.

CIO personnel at times assumed faculty and other positions and posed as students at the University of Zimbabwe and other public universities to intimidate and gather intelligence on faculty and students who criticize government policies and actions. CIO officers regularly attended all lectures where noted MDC activists were lecturers or students. In response both faculty and students often practiced self-censorship in the classroom and academic work.

According to the Students Solidarity Trust, a local NGO that provides assistance to student activists, 128 students were arrested or detained and 43 students were expelled or suspended for engaging in student activism during the year.

During the political and economic crisis in 2008, the government failed to provide students with adequate public education; however, during the year access to public education improved. In February the government began paying all civil servants, including teachers, a monthly stipend of \$100, which provided a significant incentive for teachers who had fled election violence and hyperinflation in 2008 to return to the classroom. During the year the two teachers' unions continued to pressure the government to further improve wages. In May the government increased salaries to approximately \$150. At the same time, in response to pressure from teachers and the public, the government also reduced school fees from between \$50 and \$150 to between \$10 and \$20 per trimester and eliminated school fees for teachers' children.

In December police or ZANU-PF local officials in Mashonaland East and Central cancelled eight performances of the play "Heal the Wounds," which dramatized healing and reconciliation processes after the violent 2008 election and included a facilitated discussion on healing with audiences. In most cases the performances were blocked despite prior permission from police and the successful showing of the play in other provinces.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The constitution provides for freedom of assembly; however, the government restricted this right in practice. POSA does not require permits for meetings or processions, but it requires that organizers notify the police of their intentions to hold a public gathering seven days in advance. Failure to do so results in criminal prosecution as well as civil liability. In January 2008 POSA was amended as part of constitutional amendment 18 to require police to go to a magistrate's court and to state in an affidavit why a public gathering should not take place. Although many groups that conducted meetings did not seek permits, other groups informed the police of their planned events and were denied permission, or their requests went unanswered. Police insisted that their permission was required to hold public gatherings

and sometimes approved requests; however, they disrupted many events whether or not they were notified.

On June 18, police in Harare used batons to disperse a march by approximately 700 WOZA members to commemorate the International Day of Refugees. Police arrested five demonstrators and three journalists. After four police officers arrested Clara Manjengwa, they forced her into a police vehicle and proceeded to jump on her and beat her with batons. One of the demonstrators, who was carrying her baby, and the three journalists were released without charge on the same day. Four women, including Manjengwa, were kept in custody at the police station and denied medical treatment for injuries sustained during their arrest. Four of the arrested demonstrators suffered severe deep tissue injuries, one had a broken finger, and two were unable to walk without assistance. The four were charged with disturbing the peace and released on bail on June 18. One police officer accused WOZA lawyers from ZLHR of "stage-managing" the demonstration to embarrass authorities during the visit of Amnesty International Secretary General Irene Khan. On July 3, the prosecutor withdrew the charges, as the government could find no witnesses. During the hearing ZLHR defense attorney Beatrice Mtetwa insisted that the magistrate address the issue of the assaults carried out by police. The officer in charge of the Law and Order Unit at Harare Central Police Station claimed that he had not received a report of the assaults from the four WOZA members while they were under arrest. Mtetwa stated that she had personally shown him the women's injuries and had requested medical treatment for them on June 18. Magistrate Majonga postponed the case to allow the police time to prepare a report. No further action was taken by year's end.

On September 22, approximately 1,300 WOZA members in Bulawayo marched to commemorate the UN's International Day of Peace. Riot police disrupted the march and beat a number of protesters. According to witnesses, police searched for WOZA leaders Jenni Williams and Magodonga Mahlangu to beat them. One victim, Frances Vale, was unable to walk after being beaten by four police officers; he also suffered a fractured arm. In all, 23 persons sought medical treatment for injuries inflicted by police.

Police erected roadblocks in urban and rural areas to prevent public gatherings, repeatedly used excessive force in dispersing demonstrations by the opposition and civil society, and arrested numerous demonstrators during the year.

No further action was taken in the 2008 or 2007 cases in which opposition figures and civil society members were harassed or arrested by government authorities.

In response to continued unrest among student groups angered at increasing tuition, the government continued its harassment of university student unions and student demonstrators. On February 3, police used excessive force to disperse a group of approximately 200 students who gathered to protest an announcement that the University of Zimbabwe was planning to charge \$400 in student fees. Approximately 80 riot police beat and used tear gas against the students as they fled, resulting in 10 injuries. Police arrested 60 persons. Vitalis Mudzonga, Tawanda Katsuro, and Justice Chikanya were charged with public violence and released on bail on February 9; the rest were released without charge on February 3 and 4. On June 2, after a series of court hearings, a Harare magistrate removed the case from remand, effectively removing it from the list of pending cases, and advised the government to summon the three to court if it wished to pursue the case.

On April 16, 10 students from the National University of Science and Technology were beaten by school guards and riot police and then arrested following a demonstration on campus against the suspension of students who failed to pay tuition and examination fees. Two of the students sustained serious injuries after being assaulted by a university security guard—one student sustained a fracture, and another suffered blurred vision after being hit on the nose with a truncheon. The students were held at Bulawayo Central Police Station and charged with malicious injury to property before being released on April 20 after meeting strict bail conditions. The case was pending at year's end.

On August 5, 14 representatives of the Zimbabwe National Students' Union were arrested at the University of Zimbabwe while speaking to students about school fees. Ten were immediately released; Clever Bere, Kudakwashe Chakabva, Archieford Mudzengi, and Brian Rugondo, were held overnight at a police station. Police refused to advise the students or their lawyers of the charges for more than 24 hours. The detentions came days after the ministers of home affairs assured the public that peaceful gatherings would not be disturbed and stated that arbitrary arrests would no longer be tolerated. On August 7, the students were charged under the Criminal Law (Codification and Reform) Act with participating in a gathering with intent to promote public violence, breach of peace or bigotry and granted bail by a Harare magistrate. During a hearing on September 1, a magistrate conceded

that the section of the law the students were accused of contravening had been found unconstitutional and repealed several years before. The case was pending at year's end.

There were no developments in student cases reported in 2007 or 2008.

Freedom of Association.—Although the constitution and law provide for freedom of association, the government restricted this right in practice. Organizations generally were free of governmental interference only if the government viewed their activities as nonpolitical. ZANU-PF supporters, sometimes with government support or acquiescence, intimidated and abused members of organizations perceived to be associated with the opposition. Suspected security force members visited the offices and inquired into the activities of numerous NGOs and other organizations that it believed opposed government policies.

For example, on March 18, in Shamva, Mashonaland Central Province, police disrupted a civic education meeting led by the NGO Crisis in Zimbabwe Coalition. The meeting was held to solicit public views on the new inclusive government. Police, who earlier provided clearance for the meeting, ordered organizers to stop the meeting, saying it had started late. Police accused the organizers of being sympathetic to the MDC and threatened them with arrest.

On October 25, police arrested National Association of NGOs director Cephas Zinhumwe and chairperson Dadirai Chikwengo after a two-day NGO meeting that concluded with a statement expressing concern about the slow progress in implementing the GPA. Police charged the two with contravening POSA for holding a meeting without police clearance. In a hearing on November 25 in Victoria Falls, Magistrate Richard Ramboea dismissed the charges, stating that the association's meeting was exempt from POSA.

The formation of political parties and unions was not restricted; however, security forces and ZANU-PF supporters interfered with activities of both during the year. For example, on March 25, 10 ZANU-PF supporters disrupted an MDC meeting of an estimated 50 persons in Mufakose. The ZANU-PF supporters attacked with a metal bar the man leading the meeting. Several MDC supporters were injured in the attack. The perpetrators threatened to kill the local MP, who was not at the meeting. The incident was reported to police; however, no action was taken by year's end.

c. Freedom of Religion.—The constitution and law provide for freedom of religion, and the government generally respected this right in practice. The government and the religious communities historically have had good relations; however, the government continued to criticize and harass religious leaders who were critical of government policies and who spoke out against the government's human rights abuses. Church leaders and members who criticized the government faced arrest, detention, and, in the case of foreigners, possible deportation. Although not specifically aimed at religious activities, POSA and other laws continued to be used to interfere with religious and civil society groups organizing public prayer rallies.

The government arrested, harassed, and prevented church attendance of Anglican clergy and parishioners from the Church of the Province of Central Africa (CPCA), the regional body of the Anglican Communion. Police continued to disrupt Anglican church services and strike worshippers, primarily women, with batons. They arrested parishioners, interrogated priests and lay leaders, and locked the doors of churches to keep worshippers away.

On October 18, police detained and questioned Brandon Conway, a Roman Catholic priest, after he read the Zimbabwe Roman Catholic Bishops' annual pastoral letter at his parish. The letter stated that the country was traumatized as a result of widespread violence in the period prior to the 2008 election and that politicians involved in committing acts of violence should not be allowed to hold any public office, as part of the national healing process provided for in the GPA. Conway was released the same day.

The government continued to favor Nolbert Kunonga, the ZANU-PF-affiliated, former Anglican bishop of Harare, who formed the Church of the Province of Zimbabwe in 2007. In late November and December, police and priests aligned with Kunonga renewed disruptions of CPCA church services and functions after several months of peaceful sharing of church facilities by Kunonga and the CPCA. On November 22, 10 police officers and six priests in Mangwende, Mashonaland East aligned with Kunonga interrupted services at St. Clare's Church and forced Reverend Chad Gandiya, bishop of the diocese of Harare of the CPCA, and church parishioners to leave.

On December 20, police blocked parishioners' access to every Anglican church in Harare during Sunday morning services and made several arrests. For example, an employee of the CPCA at the Harare Anglican Cathedral, Misheck Dangirwa, was

abducted and beaten by men aligned with Kunonga before being arrested. He was released on December 23. The same day, Sam Chikumbirike, a warden for a church in the Harare suburb of Hatcliff, was beaten and arrested for permitting a meeting of the church's women's group on December 19; he was released on December 21. At year's end it was unclear what charges, if any, Dangirwa and Chikumbirike faced.

On December 24 and 25, police again blocked access to Anglican churches in Harare, preventing parishioners' access to Christmas services. On December 27, both the archbishops of Canterbury and York condemned police intimidation of Anglicans in a statement.

Societal Abuses and Discrimination.—There were no reports of societal violence, harassment, or discrimination against members of religious groups, including inter-religious and intrareligious incidents, other than incidents that were politically motivated.

The Jewish community numbered approximately 270. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation; however, the government restricted these rights in practice. The government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing assistance to refugees and asylum seekers, but it interfered with some humanitarian efforts directed at internally displaced persons (IDPs).

During the year armed police continued routinely to erect roadblocks in and around cities and rural districts, especially before planned demonstrations. Security forces claimed that they were looking for criminals, smuggled goods, and food; however, in many cases police arbitrarily seized goods for their own consumption.

During the year travel bans on a variety of persons remained in effect. Foreign correspondents were denied visas during the year. On October 29, the government deported Manfred Nowak, the special rapporteur on torture and other cruel, inhuman, or degrading treatment, after security officers refused to grant him entry on October 28. Nowak was in South Africa in transit to Zimbabwe on October 27 when he learned that the government had rescinded its invitation for a fact-finding mission. Prime Minister Tsvangirai then invited Nowak for a meeting on October 29. However, when Nowak arrived in Harare, security officials claimed the Ministry of Foreign Affairs had not granted clearance for the meeting and refused him entry.

The constitution prohibits forced exile, and there were no reports that the government used it. A number of persons, including former government officials, prominent businessmen, human rights activists, MDC members, and human rights lawyers, left the country and remained in self-imposed exile.

The registrar general continued to deny passports based on his interpretation of the Citizenship Act. The act requires all citizens with a claim to dual citizenship to have renounced their claim to foreign citizenship by January 2002 to retain their Zimbabwean citizenship. The act revokes the citizenship of persons who fail to return to the country in any five-year period. However, the High Court ruled in 2002 that this interpretation does not take into account the fact that persons are not automatically guaranteed foreign citizenship merely because their parents were born in a foreign country, as some countries require persons to confirm their citizenship, in which case they could be rendered stateless. It further held that it is incorrect to presume that when one has a parent or parents that are born out of the country, they are citizens of the other country by descent. In addition, some countries, including in southern Africa, do not have a means to renounce citizenship. Independent groups estimate that as many as two million citizens may have been disenfranchised by the law, including those perceived to have opposition leanings, such as the more than 200,000 commercial farm workers from neighboring countries and approximately 30,000 mostly white dual nationals. The problem became particularly acute during voter registration in late 2007 and during the 2008 elections, when some were denied the right to vote—despite having voted previously—because they could not adequately demonstrate their citizenship.

Internally Displaced Persons.—According to independent assessments, hundreds of thousands of persons remained displaced within the country as a result of government policies including state-sponsored election-related violence, land reform, and Operation Murambatsvina in 2005. Since 2007 the International Organization on Migration (IOM) helped more than 200,000 displaced persons with temporary shel-

ter and food. A total of 8 percent of citizens surveyed in 2007 stated they had moved in the last five years because they were “asked to move.” Nevertheless, the government denied that a serious IDP problem existed. Historically, the government did not tolerate use of the phrase “internally displaced persons” and instead referred to “mobile and vulnerable populations” (MVPs). During the year the government acknowledged that there were some IDPs in the country and began to agree to use of the term when describing some populations. However, some government officials continued to refuse to describe victims of farm-related displacements as IDPs or MVPs and preferred to call them “squatters.”

The government’s campaign of forced evictions and the demolition of homes and businesses continued during the year under the land reform policy, which affected more than 5,000 farm workers and their families. Approximately 3,300 families were forcibly displaced, sometimes violently, during government-condoned takeovers of commercial farms; an additional 1,800 farm workers and their families were allowed to remain on seized farms, but they remained at risk of displacement by new owners. According to a 2002 national census, the average household size was five persons per household, which suggested that 25,000 people might have been affected by the land reform program during the year. Most were displaced from farms taken over during the government’s politicized land reform program. In previous years new farm owners often allowed the farm workers of the previous owner to remain on the property. However, during the year evictions increased and hundreds of workers’ homes were burned by new proprietors.

During the year some local government officials facilitated donor and NGO provision of humanitarian assistance to IDPs. However, in certain cases, particularly those involving disputed farms, the government refused to grant NGOs access to assist displaced persons.

Between April and June 2008, at least 30,000 persons were displaced in the wake of government-sponsored political violence and destruction of property, particularly in rural areas. The government did not provide assistance to IDPs, prohibited humanitarian agencies from assisting IDPs or conducting surveys to assess the scope of the problem, and refused to acknowledge that its policies had caused internal displacement. In August 2008, when violence levels in rural areas declined in the wake of political talks, many IDPs returned to or near their homes and were “fined” in food, animals, or money by local ZANU-PF militias. During the year many IDPs continued to return to their rural home areas and rebuilt homes damaged or destroyed in 2008. At year’s end some families continued to live in tents that were provided as temporary shelter in 2008 by independent organizations. Others had integrated into new communities within the country or in the diaspora.

In 2005 an estimated 700,000 persons lost their homes or businesses during Operation Murambatsvina, and approximately 2.4 million persons were directly affected. The government program “Operation Live Well,” purportedly launched to build housing for those displaced, primarily benefited government officials and the police rather than victims of Operation Murambatsvina. The Swiss-based Internal Displacement Monitoring Centre’s 2008 report *The Many Faces of Displacement: IDPs in Zimbabwe* reported that victims of Operation Murambatsvina continued to suffer and lacked permanent shelter. Some of those who returned to rural areas were regarded with suspicion by rural chiefs and were unable to remain. In urban areas the continued lack of housing contributed to high rent and overcrowding.

Protection of Refugees.—The country is a party to the 1951 Convention relating to the Status of Refugees, its 1967 Protocol, and the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. Its laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

In law and practice, the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

By law refugees must live at the Tongogara refugee camp, where they had access to basic services and accommodation. However, the government’s encampment policy posed limitations on refugees’ freedom of movement and ability to earn a livelihood. In some cases the government permitted refugees with special needs to live in urban centers. The government granted work permits to a few refugees, primarily those with special skills.

Some refugees lived in urban areas without the permission of the government and remained at risk of arrest and return to the refugee camp. There were reports of arrests and returns to the camp during the year. There were also several cases of criminal allegations against refugees; in such cases the UNHCR assisted the refugees to have access to legal representation.

The UNHCR had a resettlement program that processed approximately 300 individuals for third-country resettlement during the year.

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

The constitution provides citizens with the right to change their government peacefully; however, this right was restricted in practice because the political process continued to be tilted heavily in favor of ZANU-PF, which has dominated since independence in 1980.

Elections and Political Participation.—In 2007 SADC designated then South African president Thabo Mbeki to serve as mediator between Robert Mugabe's government and the MDC. The mediation aimed to produce a mutually agreed election date and procedures to rewrite the constitution. Mbeki described his main objective as facilitating elections "whose outcome would not be contested." While the mediation was ongoing, Mugabe announced in January 2008 that elections would be held in March 2008, despite Morgan Tsvangirai's protests that mediation was still under way and there was not enough time to campaign. On March 29, 2008, the country held harmonized elections for the presidency, House of Assembly, Senate, and local government.

As in previous elections in 2000, 2002, and 2005, the preelection period was not free and fair. The environment was characterized by some violence and a media environment that heavily favored Mugabe. Although Tsvangirai was allowed to campaign, the police did not permit the MDC to hold all planned rallies, and some MDC activists were intimidated and beaten in the weeks before the election. Foreign journalists were not granted permission to cover the elections.

The law stipulates that the Zimbabwe Electoral Commission (ZEC) is responsible for maintaining and updating the voters' roll. However, the ZEC lacked the capacity to carry out these functions and relied heavily on the Registrar General of Voters Office to help it carry out its responsibilities. In the weeks preceding the March elections, the registrar general and the ZEC did not ensure an open inspection of the voters' roll until they were compelled to do so by a court order. During the year a local NGO examined the voters' roll in its report *2013 Vision: Seeing Double and the Dead: A Preliminary Audit of Zimbabwe's Voters' Roll* and found numerous inaccuracies. Notably, the report documented attempts to fraudulently register voters at ghost addresses, multiple registrations of the same person in different constituencies, and an improbable number of registered voters over the age of 90.

The March 2008 election was largely peaceful, with international observers from African organizations present; international observers from Western nations were not invited. Domestic observers played a critical role in the March 2008 election and observed both voting and vote tallying at polling places across the country. For the first time, election results were posted outside each polling station. At numerous polling places, observers photographed the final vote count sheet and distributed the images.

The March 2008 election results demonstrated a significant shift in the political environment. The MDC secured a majority in numerous local government councils and in the House of Assembly. In August 2008 Lovemore Moyo of the MDC-T was elected Speaker of the House by secret ballot, marking the first time a member not affiliated with ZANU-PF ever held the seat.

The results of the presidential race were not released for more than a month, calling into question the credibility and independence of the ZEC. According to the ZEC tally, MDC-T's Tsvangirai obtained 47.9 percent of the vote, while Mugabe obtained 43.2 percent. Simba Makoni, an independent candidate, received 8.3 percent. Initially the MDC-T challenged the results, asserting that Tsvangirai had secured the majority of votes needed to win the presidency. According to the ZEC tally, since no candidate secured the 50 percent-plus-one needed to win outright, a run-off election was set for June 2008.

The months leading up to the run-off election were marred by widespread violence and intimidation perpetuated by the ZANU-PF government and its supporters. The violence left more than 150 dead, thousands injured, and tens of thousands displaced. In June 2008, in the wake of the violence, Tsvangirai announced that he would not contest the run-off election. Nevertheless, the government held the election, and in June 2008 the ZEC announced Mugabe had won with more than 85 percent of the vote; he was inaugurated the same day.

Due to a government policy shift from the March election, the Zimbabwe Election Support Network (ZESN) and other domestic observers faced significant obstacles that prevented them from observing the June election. The government greatly reduced the number of accreditations from more than 8,600 in the harmonized election to 500 in the presidential run-off. Observers charged that the shortage of accredita-

tions was a means to curtail the ability of civil society to monitor the election, especially polling.

While the country did not allow nationals of most Western countries to observe the elections, it allowed election observer missions from three African groups: the Pan African Parliament, SADC, and the African Union. All of the groups subsequently issued statements critical of the election. Leaders of a number of neighboring countries, including Botswana and Zambia, condemned the election conduct.

Following domestic and international protests of Mugabe's inauguration, ZANU-PF and MDC resumed negotiations, with Mbeki as lead SADC mediator. In September 2008 Mugabe, Tsvangirai, and MDC-M party leader Arthur Mutambara, signed a power-sharing agreement, known as the GPA, to establish an "inclusive" government.

In January, after several months of additional negotiations on the distribution of ministries and despite the abductions of MDC officials and Mugabe's reappointment of Reserve Bank Governor Gideon Gono and appointment of Attorney General Johannes Tomana in violation of the GPA, Mugabe, Tsvangirai, and Mutambara agreed to implement an inclusive government. On February 5, Parliament passed constitutional amendment 19, which added to government the positions of prime minister, two deputy prime ministers, and a number of additional ministries and deputy ministry positions. Passage of the amendment paved the way for the February 11 inauguration of MDC-T leader Morgan Tsvangirai as prime minister, alongside Deputy Prime Ministers Arthur Mutambara and Thokozani Khupe. On February 13, 41 ministers and 20 deputy ministers were sworn into office.

On December 21, several months after parliament submitted nominations to his office, President Mugabe named the members of three of four independent commissions, including for the Media, Human Rights, and Electoral Commissions, as provided for in the GPA. Nominees for the Anti-Corruption Commission had not been named by year's end, and none of the commissions were legally constituted, as their chairpersons had not yet been named.

A number of issues set forth in the GPA remained unresolved at year's end. There were selective prosecutions of MDC-T officials, and intimidation of civil society leaders and opposition members continued. In addition, President Mugabe appointed an attorney general and a reserve bank governor without consulting with Prime Minister Tsvangirai as stipulated in the GPA. On October 16, following months of protests from the prime minister and observers that Mugabe was not fulfilling his commitments under the GPA, Tsvangirai and MDC-T ministers announced they were "disengaging" from ZANU-PF. In subsequent weeks MDC-T officials did not attend cabinet meetings, and Tsvangirai sought intervention by numerous heads of state from other SADC countries before the matter was ultimately referred to SADC, as the guarantors of the GPA. On November 5, SADC heads of state, including South African President Jacob Zuma, the SADC-mandated mediator, reaffirmed their commitment to ensuring the implementation of the GPA; the MDC-T subsequently returned to government. By year's end the three parties had resolved most of the more than 20 outstanding GPA issues. However, there was no resolution of several high priority issues, including the appointments of provincial governors, the reserve bank governor, and the attorney general.

The ZEC was established in 2005 but was not constitutionally mandated until the passage of amendment 19. Under the amendment the ZEC is charged with directing voter registration, maintaining the voters roll, conducting voter education, accrediting observers, and conducting elections. ZEC is comprised of nine members, four of whom must be women, who are appointed by the president. The chairperson is appointed after consultation with the Judicial Service Commission, while the other eight are appointed from a list of nominees submitted by the Parliamentary Committee on Standing Rules and Orders. ZEC also has provincial and district offices. Since ZEC's inception, observers have questioned its independence and impartiality. President Mugabe announced the eight members of the ZEC on December 21 but had not named a chairperson at year's end. Without a properly constituted ZEC, there is no legal body authorized to oversee elections in Zimbabwe.

In September 2007 Parliament unanimously passed constitutional amendment 18. Among other changes the amendment expanded the House of Assembly by increasing the number of constituencies from 120 to 210. It also empowered ZEC to set the boundaries of parliamentary and local constituencies. The delimitation report was finalized in January 2008 without debate in Parliament, in contravention of the constitutional requirement. The MDC and members of civil society criticized the delimitation of wards and constituencies as favoring ZANU-PF.

Although the constitution allows for multiple parties, the ruling party and security forces intimidated and committed abuses against opposition parties and their supporters and obstructed their activities.

Under the constitution the president may unilaterally declare a state of public emergency for a period of up to 14 days, has sole power to dissolve Parliament and to appoint or remove a vice president and any minister or deputy minister, and directly appoints eight provincial governors who sit in Parliament and six senators.

The government routinely interfered with MDC-led local governments. In the 2008 elections, the MDC won a majority of seats in city councils across the country. Under the Urban Councils Act, the Ministry of Local Government, Urban, and Rural Development has the power to appoint “special interest councilors” to local councils to represent special interest groups. Such appointments should fill “gaps” by including members of business and civil society in the councils. However, Minister Ignatius Chombo used this authority to appoint losing ZANU-PF candidates to councils across the country. City councils in Mutare, Harare, Bulawayo, and other cities challenged such appointments.

After the 2008 elections, there were 34 women in the 210-seat House of Assembly. Women won 23 of the 60 elected seats in the Senate, including the president of the Senate. One vice president, one deputy prime minister, five ministers, and two governors were women. Of the 270 House and Senate elected positions, 57 were filled by women, constituting 21 percent of the total, short of the SADC target for female representation of one-third. In 2006 Rita Makarau became the first woman to hold the position of judge-president of the High Court. Women participated in politics without legal restriction, although according to local women’s groups, husbands commonly directed their wives to vote for the husbands’ preferred candidates, particularly in rural areas. The ZANU-PF congress allotted women one-third of party positions and reserved 50 positions for women on the party’s 180-member central committee, which was one of the party’s most powerful organizations.

There were 11 members of minority groups in the cabinet, including Deputy Prime Minister Thokozani Khupe, former vice president Joseph Msika, who died in August, and his replacement selected by the ZANU-PF party congress, Vice President Joshua Nkomo, who was sworn in on December 14. There were 46 members of minority groups in the House of Assembly, including three whites.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively and impartially, and officials frequently engaged in corrupt practices with impunity. The most recent World Bank’s World-wide Governance Indicators reflected that corruption was a severe problem. Implementation of the government’s ongoing redistribution of expropriated white-owned commercial farms substantially favored ZANU-PF elite and continued to lack transparency. High-level ZANU-PF officials continued to select numerous farms and register them in the names of family members to evade the government’s one-farm per official policy. The government continued to allow individuals aligned with top officials to seize land not designated for acquisition. Public officials were not subject to financial disclosure laws.

High level ZANU-PF officials and entrepreneurs supporting the ruling party received priority access to farm inputs such as fertilizer, seed, and fuel. The government’s campaign to provide housing plots and vending sites for victims of Operation Murambatsvina mostly benefited civil servants, security forces, and ZANU-PF supporters.

A government-appointed Anticorruption Commission was established in 2005 but had yet to register any notable accomplishments. Constitutional amendment 19 required the previous commission to be disbanded and a new one to be appointed; however, commission members had not been named by year’s end.

Prosecutions for corruption continued but were selective and generally seen as politically motivated. The government targeted MDC-T officials, persons who had fallen out of favor with ZANU-PF, and individuals without high-level political backing. For example, in March Brigadier General Douglas Nyikayaramba, head of a committee to administer the provision of farming inputs, named nine MPs whom he stated had abused a program that provided inputs to legislators by taking more inputs than they were allocated. Those accused included MDC-T MPs Evelyn Masaiti of Dzivarasekwa, Ernest Mudavanhu of Zaka North, Hamandishe Maramwidze of Gutu North, Edmore Marima of Bikita East, Heya Shoko of Bikita West, Ransome Makamure of Gutu East, Tachiona Mharadza of Masvingo West, and ZANU-PF MPs Tranos Huruba of Chivi North and Ivine Dzingirayi of Chivi South. The nine stood trial separately. On July 21, Mudavanhu was found guilty and sentenced to two years in jail with six months suspended if he paid a fine of \$15,000. He was released on bail on September 11 pending appeal. Makamure, Marima, and Shoko were acquitted; the remaining cases were pending at year’s end. Convicted MPs could lose their seats in Parliament.

There were reports that ZANU-PF officials in the government removed from the civil service and the military persons perceived to be MDC supporters. There also were reports that the government assigned soldiers and youth service members to work in government ministries. In August the comptroller and auditor-general submitted a report to Parliament that documented significant irregularities within the Ministry of Youth Development, Indigenisation, and Empowerment. Notably, the report stated that there were more than 10,000 names on the ministry's payroll that were not reflected in human resources records and that 458 persons were listed twice.

NGOs documented numerous cases of public officials soliciting bribes to allocate market stalls in the major cities. On August 14, a magistrate's court convicted MDC-T Mayor of Chitungwiza Israel Marange of accepting a \$1,000 bribe to allocate a vending stall and sentenced him to one year in jail. Marange was released on bail pending appeal in the High Court; the case was pending at year's end. On December 7, the MDC-T announced it was suspending Marange and several other MDC-T officials who were accused of corruption.

In April Transparency International-Zimbabwe's (TI-Z) Advocacy and Legal Advice Center began an anticorruption campaign by inaugurating a toll-free hotline for residents to report corruption, seek free legal advice, and propose solutions for the prevention of corruption. TI-Z also established a corresponding monthly newsletter to discuss hotline complaints. Although the hotline was initially advertised in government-controlled media, in August the national public broadcaster, Zimbabwe Broadcasting Holdings, refused to carry TI-Z's advertisements. Many of the hotline's callers complained about police soliciting bribes at traffic stops, corruption in the allocation of vending stalls, and officials' misappropriation of funds.

The government stated that the AIPPA was intended to improve public access to government information; however, the law contains provisions that restrict freedom of speech and press, and these elements of the law were the ones the government enforced most vigorously.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups operated in the country, investigating and publishing their findings on human rights cases; however, they were subject to government restrictions, interference, monitoring, and harassment. Domestic NGOs worked on human rights and democracy issues, including lobbying for revision of POSA and AIPPA; election observation; constitutional and electoral reform; increasing poor women's access to the courts; raising awareness of the abuse of children; conducting civic education; preserving the independence of the judiciary; and combating torture, arbitrary detention, and restrictions on freedom of the press and assembly. Major domestic independent human rights organizations included the Crisis in Zimbabwe Coalition, Zimbabwe Human Rights NGO Forum, ZESN, ZLHR, ZPP, National Constitutional Assembly (NCA), Students Solidarity Trust, and WOZA.

The government continued to use the government-controlled media to disparage and attack human rights groups. Articles typically dismissed the efforts and recommendations of NGOs that were considered critical of the government as efforts by groups that merely did the bidding of "Western governments." On July 27, President Mugabe criticized NGOs, describing them as having "exceeded their terms of reference" and questioned "the advisability of having NGOs."

During the year police arrested or detained NGO members, often in connection with demonstrations or marches; many were beaten during arrest and tortured while in custody. Numerous NGO members died in postelection violence in 2008.

The government harassed some NGOs it believed opposed government policies, investigated their activities, and harassed their leaders. Unlike in previous years, there were no known cases of police raids of NGO offices. The government continued to obstruct the activities of organizations involved in humanitarian activities, particularly in rural areas.

Representatives of international and foreign NGOs were harassed. On September 23, security forces interrupted a workshop in Mutare and arrested Kenyan environmental activist Patrick Ochieng, the founder and executive director of the NGO Ujamaa Centre. Police charged him with attempting to incite villagers in the Chiadzwa region to subvert a constitutionally elected government, detained him for several hours, withheld his passport, and issued a "warned and cautioned" statement. On September 24, police returned Ochieng's passport and allowed him to leave the country.

In 2007 Parliament unanimously approved constitutional amendment 18, which provides for the establishment of a parliamentary human rights commission; this

was reiterated in amendment 19, which was adopted by Parliament on February 5. On October 12, the Judicial Service Commission and Parliament's Committee on Standing Rules and Orders forwarded a list of 16 names to President Mugabe for consideration, as required by the amendment. On December 21, Mugabe announced eight members of the human rights commission, four of whom are required to be women, but he had not named a chairperson by year's end.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law provide that no person can be deprived of fundamental rights, such as the right to life, liberty, and security of person, based on one's race, tribe, place of origin, political opinions, color, creed, gender, or disability; however, the constitution allows for discrimination, primarily against women, on the grounds of "customary law." Discrimination against women and persons with disabilities persisted. The government and ZANU-PF continued to infringe on the right to due process, citizenship, and property ownership in ways that affected the white minority disproportionately.

Women.—The law makes rape and nonconsensual sex between married partners a crime; however, few cases of rape, especially spousal rape, were reported to authorities, because women were unaware that spousal rape was a crime and feared losing the support of their families, particularly in rural areas. Government statistics on rape were unavailable, but anecdotal evidence indicated it was a widespread problem, particularly during the 2008 elections. The criminal code defines sexual offenses as rape, sodomy, incest, indecent assault, or immoral or indecent acts with a child or person with mental disabilities and provides for penalties up to life in prison for sexual crimes. Police acted on reported rape cases not associated with political violence, and the government media frequently published stories denouncing rape and reporting convictions. In many cases the victims knew their rapists. The criminal code also makes it a crime to knowingly infect anyone with HIV. Local NGOs dealing with women's rights reported that rape cases were brought to the court and there were convictions; however, statistics were unavailable.

In December the international NGO AIDS Free World published a report entitled *Electing to Rape: Sexual Terror in Mugabe's Zimbabwe*, which was based on interviews with 70 women who survived rape in 2008. The women, most of whom were affiliated with the MDC, reported they were collectively raped at least 380 times by 241 different ZANU-PF youth militia and war veterans. Each woman reported being raped five times on average, although the actual number could be higher as many women fell unconscious during the attacks. Sixty-seven of the women reported that the perpetrator made political statements during the rape; most victims were affiliated with the MDC.

According to reports, soldiers and illegal miners continued to rape numerous women in the diamond fields in Chiadzwa during the year. One local NGO reported that at least 50 women were raped during the 2008 election-related violence. Because rape was underreported, NGOs believe the actual number was much higher. In a locally produced documentary entitled *Hear Us: Women Affected by Political Violence in Zimbabwe Speak Out*, survivors of rape and torture detailed their experiences.

In November IOM, the UN Children's Fund (UNICEF), and the UN Population Fund (UNFPA) announced plans to set up centers for survivors of sexual abuse to access medical and psychological help. The announcement came in response to a survey that found that the country's social, political, and economic instability had led to an increase of sexual abuse of women, girls, and some boys. More than 50 percent of the 1,900 persons interviewed, both male and female, reported that they had been raped. Nearly half of the respondents said they did not know what to do to cope with rape experiences.

Domestic violence against women, especially wife-beating, continued to be a serious problem. In 2006 the Musasa Project, a local NGO that worked for the protection and promotion of women's rights, reported that approximately one-third of women in the country were in an abusive marital relationship. Most cases of domestic violence went unreported due to traditional sensitivities and the women's fear of abandonment without support. Authorities generally considered domestic violence to be a private matter and usually only arrested an offender for assault if there was physical evidence of abuse. There were newspaper reports of wife killings, and there were a few reports of prosecutions and convictions for such crimes; however, details were unavailable.

In 2007 the government enacted the Domestic Violence Act, which criminalizes domestic violence and provides enhanced protection for victims of abuse; the act was viewed as a milestone by women's rights groups. The law provides for a fine and a maximum prison sentence of 10 years. The Ministry of Women's Affairs, Gender,

and Community Development and local women's groups coordinated efforts to develop an implementation strategy after the act passed Parliament in 2006. In October the ministry created an 11-member Anti-Domestic Violence Council to monitor the implementation of the act, with members drawn from government, civil society, churches, and traditional leaders.

During the year the government continued a public awareness campaign on the act. Several women's rights groups worked with law enforcement and provided training and literature on domestic violence as well as shelters and counseling for women. Local women's rights groups reported that awareness of the domestic violence act increased; however, the press reported that the act proved difficult to implement. For example, one impediment was the police form to report domestic violence—at 30 pages long, it was difficult to complete and photocopy.

Prostitution is illegal, and several civil society groups offered anecdotal evidence that the country's economic problems continued to force women and girls into prostitution. Police often tolerated prostitution at nightclubs, truck stops, and bars in urban areas. Clients were rarely arrested. The maximum penalty for soliciting for prostitution is a fine of \$200 or imprisonment up to six months. According to local lawyers, the maximum penalty was rarely imposed; those found working as prostitutes typically were forced to pay a fine at a police station. Although police occasionally arrested prostitutes, they usually paid small fines and were not detained at length. In March 12 women in Harare pled guilty to soliciting for prostitution clients after they were arrested while loitering outside a bar. One woman was sentenced to one month in jail because she was already out on bail for the same crime; the other 11 paid fines and performed community service. There were reports that girls as young as 12 worked as prostitutes for soldiers and illegal miners in the Chiadzwa diamond fields. There continued to be reports that women and children were sexually exploited in towns along the borders with South Africa, Botswana, Mozambique, and Zambia. During the year numerous media reports discussed police efforts to halt prostitution throughout the country. Police arrested both prostitutes and their clients during the year.

Labor legislation prohibits sexual harassment in the workplace, and an employer may be held liable for civil remedies if found to be in violation of provisions against "unfair labor practices," including sexual harassment. Penalties for these violations are not specified in the law. Women commonly faced workplace sexual harassment, government enforcement was not effective, and there were no reports of any prosecutions during the year.

Couples have the right to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. According to the UNFPA's 2009 State of the World Population Report, 58 percent of women used modern methods of contraception and 69 percent of births were attended by skilled attendants. Inadequate medical facilities, including a lack of electricity and medication, contributed to a relatively high maternal mortality ratio of 880 deaths per 100,000 live births. There was no information available on whether women were equally diagnosed and treated for sexually transmitted infections, including HIV.

Despite laws aimed at enhancing women's rights and countering certain discriminatory traditional practices, women remained disadvantaged in society. Economic dependency and prevailing social norms prevented rural women in particular from combating societal discrimination. Despite legal prohibitions, women remained vulnerable to entrenched customary practices, including pledging young women to marry partners not of their choosing and forcing widows to marry the brothers of their late spouses.

The law recognizes women's right to own property independently of their husbands or fathers; however, many women continued to be unaware of their property and inheritance rights. Divorce and maintenance laws were equitable, but many women lacked awareness of their rights.

Women and children continued to be adversely affected by the government's forced evictions, demolition of homes and businesses, and the takeover of commercial farms. Many widows who earned their income in the informal economy or by renting out cottages on their property lost income when their market stalls or cottages were destroyed. Widows faced particular difficulties when forced to relocate to rural areas. Traditionally, women joined their husband's family upon marriage and were considered an unwanted burden by their childhood families. Likewise, they were sometimes unwelcome in their husband's family in rural areas where resources were already strained.

The Ministry of Women's Affairs, Gender, and Community Development continued its efforts to advance women's rights. The ministry, through collaboration with local NGOs, continued training workshops for traditional leaders in rural communities to

create more awareness of women's issues. The government gave qualified women access to training in the military and national service. Although there were advances for women within the armed forces in recent years, they continued to occupy primarily administrative positions. In recent years women progressed in health and education but in general were concentrated in the lower echelons of the workforce, especially in the financial industry. Women held positions of importance in the legislative and executive branches of the government.

NGOs reported that anecdotal evidence indicated women experienced economic discrimination, including in access to employment, credit, pay, and owning or managing businesses.

Several active women's rights groups concentrated on improving women's knowledge of their legal rights, increasing their economic power, combating domestic violence, and protecting women against domestic violence and sexual transmission of HIV/AIDS.

Children.—Citizenship is derived from birth in the country (*jus soli*) and from one's parents (*jus sanguinis*). The 2003 Citizenship Amendment Act significantly changed citizenship laws and resulted in statelessness for some persons who were born to foreign-born parents (see section 2.d.). Not all births were registered immediately, particularly if a child was born in a rural area outside of a government hospital. The failure to register all births resulted in some difficulties in accessing public services, particularly education and identification documents.

Although legislation existed to protect children's rights, it was difficult to administer and enforce, primarily due to a lack of resources. Many orphaned children were unable to obtain birth certificates, which the Child Protection Society reported made it difficult for the children to enroll in school and access health services; however, the government made improvements in 2007 by decentralizing the authority to issue birth certificates to local registrar general offices throughout the country.

Schools and clinics reopened in most communities, although many families struggled to pay fees and purchase educational materials for their children. According to statistics from UNICEF, one-quarter of the country's children were orphans, and 100,000 children lived in child-headed households.

In 2007 the Ministry of Public Service, Labor, and Social Welfare and UNICEF formalized agreements with 21 NGOs to advance the National Action Plan for Orphans and Vulnerable Children designed to ensure that orphans and vulnerable children were able to access education, food, health services, and birth registration and were protected from abuse and exploitation. UNICEF reported in 2008 that the NGOs involved had reached more than 200,000 orphans and vulnerable children with comprehensive support and protection since the beginning of the program.

Primary education is not compulsory, free, or universal. During the year the Ministry of Education, Sport, Art, and Culture drastically reduced school fees, particularly in rural areas, to increase enrollment. However, due to a lack of funding from the central government, some schools began to charge levies of up to several hundred dollars for the year, which were prohibitive for many students. Some children continued to pay school fees and levies with crops and livestock if they did not have adequate hard currency. Despite a directive from the minister of education that no child should be refused education for not paying school fees, there were reports that students with unpaid fees were locked out or turned away from schools.

The continued low enrollment resulted from continuing economic hardship, displacement of thousands of children from their homes as a result of election-related violence in 2008, farm-related violence during the year, emigration of qualified teachers, inability to pay school fees, and Operation Murambatsvina.

In most regions of the country, fewer girls than boys attended secondary school. If a family was unable to pay tuition costs, it was most often female children who left school or never began. The Child Protection Society reported that girls were more likely to drop out because they were more readily employable, especially as domestic workers. In 2006, in collaboration with UNICEF and other partners, the government launched a National Girls' Education Strategic Plan to increase the likelihood of achieving universal primary education and ensuring that girls stayed in school.

Child abuse, including incest, infanticide, child abandonment, and rape, continued to be serious problems during the year. Police statistics showed that child rape tripled between 2005 and 2007. Anecdotal evidence suggested that a relative or someone who lived with the child was the most common abuser. Girl Child Network reported that girls believed to be virgins were at risk of rape due to the belief among some that having sex with a virgin would cure men of HIV and AIDS. In 2008 UNICEF and the government launched the "Stand Up and Speak Out" child abuse awareness and prevention campaign. In October the NGO Plan Zimbabwe and the Ministry of Education, Sport, Art, and Culture launched the "Learn Without Fear"

campaign, aimed at eradicating child abuse in schools. The campaign began after a study found that many children had been victims of unreported sexual and physical abuse by their teachers and peers.

The traditional practice of offering a young girl in marriage as compensatory payment in interfamily disputes continued during the year, as did arranged marriage of young girls. The legal age for a civil marriage is 16 for girls and 18 for boys. Customary marriage, recognized under the Customary Marriages Act, does not provide for a minimum marriage age for either boys or girls; however, the criminal code prohibits sexual relations with anyone younger than 16 years of age. According to UNICEF in 2006, 29 percent of young women married when they were under 18 years of age. Child welfare NGOs reported that they occasionally saw evidence of underage marriages, particularly in isolated religious communities or among HIV/AIDS orphans who did not have relatives willing or able to take care of them.

A child is defined as a person under 16 years of age. Statutory rape, legally defined as sexual intercourse with a child, carries a fine of \$2,000, imprisonment up to 10 years, or both. A person in possession of child pornography could be charged with public indecency and face a fine of \$600, imprisonment up to six months, or both. Child prostitution carries a fine of \$200, imprisonment up to six months, or both. Those charged with child prostitution were often also charged with statutory rape. There were reports of children as young as 14 engaged in prostitution in Chiadzwa; however, because of restricted access to the area, NGOs were unable to confirm the age of the girls.

The government gave preference to national youth service graduates among those seeking employment in the government, especially in the security forces. The stated purpose of the training camps was to instill national pride in youth, highlight the history of the struggle for independence, and develop employment skills; however, news reports quoted deserters as saying that the camps subjected trainees to partisan political indoctrination as well as military training. There were numerous credible reports that graduates were used by the government to carry out political violence. There were numerous reports from NGOs that children as young as 16 participated in ZANU-PF affiliated youth militias, which perpetrated violence across the country during the 2008 election period. Persons under 18 are prohibited from joining the military or police.

With 1.6 million orphans with HIV/AIDS, the country had the world's highest percentage of orphaned children at one in four, and the number increased during the year. Ninety percent of orphans were cared for by the extended family. Many grandparents were left to care for the young, and in many cases children or adolescents headed families and were forced to work to survive. Orphaned children were more likely to be abused, not to be enrolled in school, and to suffer discrimination and social stigma. Extended families and communities often refused to take in orphans out of fear that they or their own children might contract HIV. Some children were forced to turn to prostitution for income.

UNICEF estimated that at least 10,000 children were displaced in election-related violence in 2008. Several thousand were also displaced with their parents as a result of farm-related violence and evictions during the year. At year's end NGOs were uncertain how many children remained affected. Ongoing economic hardships and the government's lack of support for social welfare institutions contributed to a highly vulnerable population of approximately 5,000 street children throughout the country. NGOs operated training centers and homes for street children and orphans, and government officials referred children to these centers.

Trafficking in Persons.—No laws specifically address trafficking in persons, and the country was a source, transit, and destination country for trafficking in persons. Domestic trafficking also occurred.

Trafficking was a serious problem. NGOs, international organizations, and governments in neighboring countries reported that Zimbabwean emigrants continued to face exploitation. Rural children were trafficked domestically and regionally into farms or cities for agricultural labor, domestic servitude, and commercial sexual exploitation, often under false pretenses of job or marriage proposals, according to one NGO. Reports suggested that those children in desperate economic circumstances, especially those in families headed by children, were most at risk. Women and children were reportedly trafficked for sexual exploitation in towns across the borders with the four neighboring countries. In recent years women and girls were lured to South Africa, China, Egypt, the United Kingdom, Canada, and Zambia with false employment offers that resulted in involuntary domestic servitude or commercial sexual exploitation. Women and children from the Democratic Republic of the Congo, Malawi, Mozambique, and Zambia were trafficked through the country to South Africa. Small numbers of South African girls were trafficked to the country for forced domestic labor.

Men also were trafficked in the region after being lured by the promise of employment. For example, at least one group of six Zimbabwean men was lured to Angola with the promise of employment in construction. On arrival, they were not paid and were subjected to forced labor.

Traffickers were typically independent businesspersons who were part of small networks of local criminal groups that facilitated trafficking within the country, as well as into South Africa or other surrounding countries. Anecdotal reporting indicated that traffickers approached a potential victim, usually young women or girls, with the offer of a lucrative job in another part of the country or in a neighboring country. Many young men and boys were exploited by "guides" when they attempted to cross the border illegally into South Africa to find work. Trafficked citizens often labored for months without pay in South Africa before their "employers" reported them to authorities as illegal immigrants. Traffickers often transported victims covertly across borders at unofficial border crossing points. The use of child laborers, especially as farm workers or domestic servants, was common in the country, often with the complicity of family members. Some children were trafficked internally to work as farm workers or domestic servants.

The constitution and law prohibit forced or compulsory labor, including by children, with the exception of working for parents or the national youth service, and traffickers could be punished under this law. Forced labor is punishable by a fine, two years' imprisonment, or both. It is a crime under the criminal code to transport persons across the border for sex. The law provides for a fine and a maximum prison sentence of two years (10 years if the victim is under the age of 16) for procuring another person to become a prostitute, whether inside or outside the country. Traffickers also can be prosecuted under other legislation such as immigration and abduction laws.

The government demonstrated interest in combating trafficking; however, it did not devote sufficient resources to investigating and prosecuting cases.

The primary government authority to combat trafficking was the ZRP, which relied on NGOs to alert them to cases. The Interpol National Central Bureau Zimbabwe's "antitrafficking desk" was staffed with ZRP officers who assisted with international investigations.

There were reports suggesting that corruption in law enforcement, especially at the local level, directly or indirectly facilitated trafficking. The government took steps during the year to educate and train officials to combat trafficking. Government officials attended IOM seminars on trafficking during the year. The IOM held numerous sector-specific training workshops during the year: four for law enforcement, eight for social services professionals, two for educators, and one for local government officials.

In 2008 the government signed a memorandum of understanding with the South African government for a joint project to regularize the status of illegal Zimbabwean migrant farm workers in South Africa's Limpopo Province and ensure them proper employment conditions.

Although the government lacked resources to provide protective services on its own, the police's Victim Friendly Unit, social services, and immigration officials used an established process for referring victims to international organizations and NGOs that provided shelter and other services. The government coordinated closely with the IOM-run migrant reception centers in Beitbridge on the border with South Africa and Plumtree near the Botswana border that provided social and reintegration services to the large number of repatriated illegal migrants and screened them to identify trafficking victims.

Victims suffering from child or domestic abuse were offered special procedures in victim-friendly courts, and trafficked persons had the option to take cases before such courts. Local immigration and social services officials referred trafficking victims to NGO-funded centers. Save the Children Norway also offered shelter and referrals for medical attention at the IOM reception centers in Beitbridge and Plumtree for unaccompanied children and trafficking victims.

The government-run media prominently featured articles about trafficking in persons, and the government had prevention programs to provide alternatives for children at risk. The government also continued to cooperate with the IOM and Interpol in a public awareness radio campaign in five languages that led to the identification of several victims during the year. In 2008 the IOM and local NGO Oasis Zimbabwe launched an antitrafficking hotline. However, the hotline received few calls during the year due to lack of public awareness.

The State Department's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The constitution and law prohibit discrimination against persons with disabilities in employment, access to public places, and the

provision of services; however, the lack of resources devoted to training and education severely hampered the ability of persons with disabilities to compete for scarce jobs. The law stipulates that government buildings be accessible to persons with disabilities, but implementation was slow. NGOs continued to lobby to include persons with albinism in the definition of “disabled” under the law. Persons with disabilities faced harsh societal discrimination. Traditional belief viewed persons with disabilities as bewitched, and children with disabilities often were hidden when visitors arrived. In 2008 the government announced it was reviewing the Disabled Persons Act, the Mental Health Act, and the constitution to align them with the Convention on the Rights of People with Disabilities; no further action was taken by year’s end.

According to the National Association of Societies for the Care of the Handicapped, persons with disabilities continued to be a forgotten and invisible group in society. For example, although an estimated 10 percent of citizens had disabilities, they were marginalized from HIV/AIDS intervention programs. The organization also reported that only 33 percent of children with disabilities had access to education.

The amendments to electoral laws changed voting procedures for the disabled. In February 2008 the ZEC issued a notice explaining that “only the Presiding Officer and two other Electoral Officers or employees of the Commission will assist any voter who requests to be assisted.” Some groups complained that this violated persons with disabilities’ right to cast their votes in secret. Ahead of the June 2008 run-off, there were widespread reports that ZANU-PF militias and war veterans instructed voters to claim blindness at the polling place in order to be assisted to vote for Mugabe. During the year the National Association of Societies for the Care of the Handicapped launched a five-year program to provide civic education to persons with disabilities with the goal of encouraging greater civic participation.

Operation Murambatsvina in 2005 severely affected persons with disabilities and, according to the UN special envoy’s report on the operation, the government held approximately 50 persons with physical and mental disabilities without care at a transit camp separated from the rest of the camp population.

The government broadcast a regular, prime-time program on state radio to promote awareness of the rights of persons with disabilities.

National/Racial/Ethnic Minorities.—According to government statistics, the Shona ethnic group makes up 82 percent of the population, Ndebele 14 percent, whites less than 1 percent, and other ethnic groups 3 percent. There was some tension between the white minority and other groups, between the Shona majority and the Ndebele minority, and among the various Shona subgroups.

The government continued its attempts to attribute the country’s economic and political problems to the white minority and Western countries. On several occasions President Mugabe, members of ZANU-PF, and the government-controlled media attempted to reignite resentment of the white minority. Ruling party supporters seldom were arrested or charged for infringing upon minority rights, especially those of the white commercial farmers targeted in the land redistribution program.

In 2008 Mugabe signed the Indigenization and Economic Empowerment Bill into law. The bill’s official purpose was to increase participation of indigenous citizens in the economy with the ultimate objective of at least 51 percent indigenous ownership of all businesses. An indigenous Zimbabwean was defined as any person, or the descendant of such person, who before April 18, 1980—the date of the country’s independence—was disadvantaged by unfair discrimination on the grounds of his or her race. The bill was criticized as an attempt to create patronage for ZANU-PF.

During the year ZANU-PF used the bill as justification to force domestic partnerships on foreign business owners who were typically white. Numerous businesses, including privately owned conservancies and factories, reported that senior ZANU-PF or military officials sought to force partnerships on them without contributing to the enterprise. The original foreign partners in these businesses were told by the officials that they should cede half of the business or face unnamed consequences.

Historically, the government has discriminated against language minorities through the Education Act, which enforced the teaching of English, along with Shona or Ndebele, depending on the region, in schools. In 2001 other minority language groups (Tonga, Shangani, Kalanga, Suthu, Venda, and Nambya) formed the Zimbabwe Indigenous Languages Promotion Association (ZILPA) to petition the government for legal reforms so that their languages could be taught in their schools. In 2008 the government agreed to allow the teaching of these languages in the areas in which they were spoken, along with English and Shona or Ndebele. The government did not provide resources for related teacher training or instructional materials. Nonetheless, the Tonga successfully developed curriculum and instructional

materials to cover the seven years of primary school education. In August Ministry of Education, Sport, Art, and Culture officials met with ZILPA and agreed to support its request for funding to teach all minority languages.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Over a period of years, Mugabe publicly denounced the LGBT community, blaming them for Africa's ills. Although there was no statutory law proscribing homosexual conduct, common law prevents homosexual men, and to a lesser extent, lesbians, from fully expressing their sexual orientation and, in some cases, criminalizes the display of affection between men. In 2006 the 2004 amended criminal code became effective, broadening the definition of sodomy to include "any act involving physical contact between males that would be regarded by a reasonable person to be an indecent act." Sodomy carries a penalty of up to one year in prison or a fine up to \$5,000. There were no known cases of sodomy charges being used to prosecute consensual homosexual activity.

There was one organization, Gays and Lesbians of Zimbabwe (GALZ), that was dedicated to advancing the rights of the LGBT community. GALZ experienced discrimination and interference in its operations during the year. The government censorship board continued to confiscate materials sent to GALZ from outside the country and refused to release the material, claiming that it was "indecent." In 2008 GALZ filed three lawsuits against the censorship board, seeking to release the materials. Due to the courts' refusal to act, three cases from 2008, three cases from 2007, and two cases from 2006 were pending at year's end.

General homophobia and restrictive legislation made it difficult for the LGBT community to feel safe about being open about their sexuality in public. Because of significant social pressure, some families reportedly subjected men and women to "corrective" rape and forced marriages to encourage heterosexual conduct; the crimes were rarely reported to police. Women in particular were subjected to rape by male members of their own families.

Members of the LGBT community reported widespread societal discrimination based on sexual orientation. Many persons who identified with the LGBT community did not seek medical care for sexually transmitted diseases or other health issues due to fear that health providers would shun them. In the 2006-07 Presidential HIV/AIDS Strategic Plan, the government agreed to address HIV/AIDS among gay men. However, by year's end the government had not made any effort to address the health needs of this population. Many LGBT persons reported leaving school at an early age, decreasing their capacity for economic gain. Coupled with socioeconomic discrimination, higher rates of unemployment and homelessness among the LGBT community were reported.

Other Societal Discrimination.—The government had a national HIV/AIDS policy that prohibited discrimination against persons with HIV/AIDS, and the law aims to protect against discrimination of workers in the private sector and parastatals. Despite these provisions, societal discrimination against persons affected by HIV/AIDS remained a problem. Although there was an active information campaign by international and local NGOs, the Ministry of Health and Child Welfare, and the National AIDS Council to destigmatize HIV/AIDS, ostracism and condemnation of those affected by HIV/AIDS continued.

Incitement to Acts of Discrimination.—Throughout the year government-controlled newspapers, radio, and television stations continued to selectively vilify white citizens and to blame them for the country's problems.

Section 7. Worker Rights

a. The Right of Association.—While the law provides private sector workers with the right to form or join unions without prior authorization, and workers exercised these rights, they were not always respected in practice. The 2005 Labor Amendment Bill eliminated previous public sector worker rights and excluded such employees from protection under labor laws, placing them instead under the Public Service Act, which does not provide for the right to form and belong to trade unions, collective bargaining, strikes, or alternative dispute resolution mechanisms. These restrictions, however, were not enforced in practice. Public sector employees participated in unions and professional organizations. Some, particularly teachers and medical professionals, mounted increasingly vocal lobbies for improved wages and conditions during the year; however, union leaders and members were harassed, arrested, and beaten during the year. The government also restricted union activity indirectly by defining all senior employees as managers even though such employees did not enjoy benefits commensurate to the title; this was not widely enforced in practice. Employees in positions designated as managerial were excluded from general union

membership. Unions must be registered with the Ministry of Labor and Social Welfare.

During the year approximately 300,000 persons belonged to the 36 unions that form the Zimbabwe Congress of Trade Unions (ZCTU); approximately 65 percent of industries were unionized. The ZCTU estimated that 600,000 persons were employed in the formal sector. Approximately 3 million persons worked in the informal sector, of which 1.2 million belonged to a trade union for informal sector workers.

The Zimbabwe Federation of Trade Unions (ZFTU), a government-created alternative labor body, continued to support splinter unions in each economic sector; however, there was no evidence that either employers or employees viewed the splinter unions as legitimate. In addition to fostering confusion among workers, splinter unions forced existing unions to spend scarce resources guarding against declining membership. The splinter unions did not bargain collectively, handle worker complaints, or provide worker education, and were not very influential during the year. In September over 20,000 teachers discovered that their pay slips showed a deduction for dues paid to the Teachers Union of Zimbabwe, a ZFTU affiliate. Thousands of teachers complained that their union membership was changed from one of the more prominent unions, or from no union affiliation, without their consent. The Ministry of Education, Sport, Art, and Culture corrected the error in subsequent months but did not reimburse the teachers.

ZANU-PF elements of the government openly targeted the ZCTU, declaring it aligned with the opposition MDC. The government continued to use POSA to limit the ZCTU and its affiliates' ability to meet with and consult their constituencies, although the law does not apply to labor unions. For example, unions were prevented from holding meetings with their members and carrying out organizational activities, sometimes by the police or ZANU-PF supporters and under threat of arrest.

On May 22, police arrested Chris Mahove, a journalist with the ZCTU publication *The Worker*, after he took photographs of a demonstration by Harare municipal workers, and deleted the pictures from Mahove's camera. Police then arrested *The Worker* editor Ben Madzimure, when he enquired about the arrest of his colleague; both were released without charge the same day.

On September 12, riot police in Harare barred the ZCTU from holding a march commemorating a 2006 incident in which police violently dispersed a union protest. Police acted in defiance of a high court order by Judge Tedi Karwi permitting the demonstration when, armed with batons, guns, and water cannons, they cordoned off the road leading to the demonstration site. Union supporters dispersed peacefully, and police did not ultimately use force against the crowd.

On November 8, ZCTU president Lovemore Matombo and four other union leaders were arrested in Victoria Falls after they attempted to hold a labor meeting. Police held the five labor leaders without charge until a November 12 hearing. During the hearing the magistrate reprimanded police for arresting the labor leaders under POSA, as labor organizations are exempt from the legislation.

In 2008 the International Labor Organization's (ILO) Application of Standards Committee, in its report on trade union rights abuses, included cases filed by the ZCTU concerning violations of freedom of association and protection of the right to organize for the second consecutive year. Zimbabwe was one of two countries the committee criticized regarding implementation of ILO Convention 87, which deals with freedom of association. The committee called on the government to halt arrests, detentions, and threats, and criticized it for refusing to appear before the committee for two consecutive years to face the allegations. The International Trade Union Confederation also criticized government harassment of unions during the year.

In November 2008 the ILO appointed a commission of inquiry to investigate complaints that worker rights were violated under ILO Conventions 26 and 87. In May and August, a three-person ILO commission of inquiry visited Zimbabwe and interviewed more than 100 individuals from government, civil society, unions, workers, and employers. The report was not completed by year's end.

Although the Labor Relations Amendment Act (LRAA) explicitly recognizes the right to strike, it is circumscribed with procedural limits including 14-day advance-notice requirements, mandated 30-day reconciliation periods, and possible mandatory referral to binding arbitration. It also requires that at least 50 percent of employees vote for a strike, although workers protesting health and safety standards or lack of equipment may strike without the notification and arbitration procedure. The act prohibits essential services employees from striking on the grounds that it would "endanger(s) immediately the life, personal safety, or health of the whole or any part of the public." The law also allows that "any nonessential service may be declared an essential service by the minister if a strike in a sector, service industry, or enterprise persists to the point that the lives, personal safety, or health of the

whole or part of the population is endangered.” Managers were also prohibited from striking, and, in some industries, the government defined most employees as managers.

In practice the government harassed and arrested union leaders who called for strikes and union members who attempted to participate in strikes. In September teachers, including several members of the Progressive Teacher’s Union Zimbabwe, were threatened or beaten by ZANU-PF youths for not going on strike. For example, Duncan Mapasure, a teacher at Mtasa Primary School in Mtasa district, Manicaland, was beaten by ZANU-PF youth militias outside his classroom. Mapasure told the press the youths “demanded that all teachers should stop teaching and stay home until Tsvangirayi removes sanctions.” Government-imposed delays prevented most employees and their unions from declaring legal strikes, and those who participated in strikes deemed illegal faced government intimidation and sentences of up to five years in prison.

There were no further developments in any of the 2008 or 2007 cases of union harassment.

b. The Right to Organize and Bargain Collectively.—The LRAA provides workers with the right to organize and permits unions to bargain collectively over wages and conditions of employment, and workers exercised this right in practice; however, government harassment of union leaders and interference by the ZFTU sometimes made such negotiations difficult. Collective bargaining agreements applied to all workers in an industry, not just union members. Public sector employees do not have the right to collective bargaining, strike, or alternative dispute resolution mechanisms; however, these restrictions were not enforced in practice. For example, the Apex Council, which represents civil servants, negotiated with the government over salaries. Teachers, the largest civil servant sector, engaged in labor actions during the year.

The minister of labor and social welfare retained the power to veto agreements that she believed would harm the economy, but she did not involve herself directly in labor negotiations unless requested to do so by one of the parties.

Although the law prohibits antiunion discrimination, in practice union members faced discrimination and harassment. A labor court handled complaints of such discrimination under the mechanism for resolving cases involving “unfair labor practices.” The determining authority may direct that workers fired due to antiunion discrimination be reinstated, although this did not happen in practice.

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

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, with the exceptions of working for parents or the national youth service; however, such practices occurred. Forced labor is punishable by a fine, two years’ imprisonment, or both. Forced labor by children occurred. Forced child labor occurred across a wide range of sectors; however, no detailed information was available on the extent of the practice.

HRW and other NGOs reported that adults and children were subject to forced labor conditions while digging for diamonds in the Marange diamond fields. According to a June HRW report, *Diamonds in the Rough: Human Rights Abuses in the Marange Diamond Fields*, children as young as 12 were forced to dig for diamonds in January and February. One victim told HRW, “We worked together with about 30 children of ages between 10 and 17 years. The children worked the same 11 hours each day as adults did. The soldiers had a duty roster for all villagers in Chiadzwa to take turns to work in the fields, irrespective of age.”

Workers on seized farms reported that new owners occasionally forced them to work without pay and under threat of eviction from the farm.

d. Prohibition of Child Labor and Minimum Age for Employment.—Under the LRAA child labor is punishable by a fine, two years’ imprisonment, or both; however, child labor was common. Under the LRAA, a child between the ages of 13 and 15 can work as an apprentice or if the work is an integral part of “a course of training or technical or vocational education.” The law further states that no person under 18 shall perform any work likely to jeopardize that person’s health, safety, or morals. The status of children between 15 and 18 years of age is not directly addressed, but 15 years of age remains the minimum for light work, work other than apprenticeship, or work associated with vocational education.

The government released the 2004 Child Labor Report in 2006. According to the survey, approximately 46 percent of children between the ages of five and 17 were engaged in economic activity. The unemployment rate continued to grow, with some estimates as high as 90 percent, which decreased the number of children employed in the formal sector. However, the incidence of children who worked in the informal

sector continued to increase as more children worked to fill the income gap left by ill, unemployed, underemployed, or deceased relatives. Children often lacked access to necessary safety equipment and training. Children worked in the agricultural sector, as domestics, in illegal gold and diamond mining, as street vendors, and as car-washers. There were continued reports of large numbers of girls subject to sexual exploitation. Although the government and NGOs increasingly discussed the problem of child labor in the agricultural, domestic, and informal sectors, concrete data on the number of cases remained difficult to evaluate and confirm. An August 2007 survey by a domestic NGO documenting child labor reported that approximately one-third of children were working. Given the economic downturn and reduction in school hours in 2008 and continued low school enrollment, the organization believed the percentage of children working was higher than one-third during the year.

Most economically active children still worked in the agriculture industry and were also involved in mining, domestic labor, and other areas of the informal economy. Children worked in all aspects of tobacco farming, from planting to preparation of leaves for sale; in the forestry regions of the eastern highlands on timber plantations; in some sugarcane plantations in the southeast; and on tea and coffee plantations and small farms. Children worked on cotton farms; one NGO reported that school attendance rates declined in cotton growing areas during the harvest. Children also worked on some small commercial farms in all aspects of maize production. At one maize farm near Marondera, a local NGO found dozens of boys between the ages of 12 and 16 working. In cities children commonly worked as street vendors and as guards for parked automobiles. Throughout the country children, particularly girls, worked as domestic laborers, often for family members. Information on the extent to which child labor occurred in the production of commercial products was not available. HRW reported that children as young as 12 living near the Chiadzwa Diamond Mine in Manicaland continued to work as forced laborers under the guard of security forces in diamond fields. According to HRW, a 13-year-old girl reported that “for two weeks in January 2009, I worked in the diamond fields together with several other children to carry sacks of diamond ore from the field and to fetch water to sieve the ore. I was too afraid to run away. Every day I would carry ore and only rest for short periods when the men were digging. We always started work very early in the morning before eight and finished when it was dark after six. All I want now is to go back to school.” Teenage girls also reportedly were sexually exploited by soldiers and diamond diggers in the Chiadzwa area. Children working in agriculture, mining, as street vendors, or who were sexually exploited faced threats to their health and safety.

Children were also engaged in the artisanal mining of gold and faced hazards to their health and safety. In particular, children between the ages of 12 and 16 were used to crawl in small spaces in abandoned gold mines shafts near Shurugwi in Midlands Province. In other areas children panned for alluvial gold and used dangerous chemicals, including mercury, in purification processes. Most of these children worked for themselves, a family member, or someone in the community.

Some employers did not pay wages to child domestic workers, claiming they were assisting a child from a rural home by providing housing and board. In addition, some employers paid the parents for the child’s work. Relatives often used AIDS-orphaned children as domestics without pay.

The Department of Social Welfare in the Ministry of Labor and Social Welfare is responsible for enforcing child labor laws, but the department lacked personnel to carry out inspections or other monitoring. In 2007 the ministry signed a memorandum of understanding with the ILO to collaborate on a multiphase program for the elimination of the worst forms of child labor. The program was expected to address child labor issues and the implementation of ILO Convention 182, including identifying the worst forms of child labor and implementing activities pertaining to the prevention of child labor and the protection of working children. In July 2008 the government and the ILO initiated a nationwide survey on the worst forms of child labor; the survey had not been released at year’s end.

e. Acceptable Conditions of Work.—There is no national minimum wage except for agricultural and domestic workers. Government regulations for each of the 22 industrial sectors continued to specify minimum wages, hours, holidays, and required safety measures. The minimum wage did not provide a decent standard of living for a worker and family, and more than 85 percent of the population continued to live below the government’s poverty line. The Ministry of Labor and Social Welfare is responsible for enforcing the minimum wage; however, monitoring systems were ineffective, and many agricultural and domestic workers were remunerated below the minimum wage. In 2008 the ILO reported that four of five jobs in the country were in the informal sector, 78 percent of which were in the agriculture. This trend continued during the year. These jobs generally provided extremely low cash income

and poor working conditions and did not offer adequate worker protections. In April the National Social Security Administration (NSSA) announced that pensioners would receive \$25 per month; the ZCTU and pensioners complained that the pension was inadequate.

The maximum legal workweek is 54 hours, and the law prescribes a minimum of one 24-hour rest period per week. No worker is allowed to work more than 12 continuous hours; however, there was little or no enforcement, particularly in the agricultural and domestic worker sectors. The law prescribes that workers receive not less than twice their standard remuneration for working on a public holiday. However, workers were unlikely to complain to authorities about violations due to fear of losing their jobs.

The public service commission sets conditions of employment in the public sector. Health and safety standards were determined on an industry-specific basis. The government designated the Zimbabwe Occupational Safety Council, a quasi-governmental advisory body made up of six representatives each from the government, employers, and trade unions, to regulate working conditions; however, budgetary constraints and staffing shortages, as well as its status as an advisory council, made the council ineffective. The NSSA continued to experience difficulty monitoring the thousands of work sites across the country; however, it continued to close shops and factories not in compliance. The NSSA reported in 2007 that a high turnover in staff meant that only 20 of 31 safety and health inspector positions were filled to monitor an estimated 14,000 registered factories. In 2007 government media reported 64 workplace fatalities and 5,568 injuries through November. By year's end the government had not taken action to address health risks in the workplace. Workers have a legal right to remove themselves from dangerous work situations without jeopardy to continued employment, but in practice they risked the loss of their livelihood if they did so.

Information on the treatment of foreign and migrant workers was not available. The government considered many commercial farm workers foreigners because one or both parents were born in another country.

EAST ASIA AND THE PACIFIC

AUSTRALIA

Australia is a constitutional democracy with a federal parliamentary government. Its population was approximately 21.4 million. Citizens periodically choose their representatives in free and fair multiparty elections. In federal parliamentary elections held in 2007, the Australian Labor Party (ALP) defeated the governing Liberal Party and National Party coalition, and ALP leader Kevin Rudd became prime minister. Civilian authorities generally maintained effective control of the security forces.

Problems were reported in a few areas, including domestic violence against women and children, racially based attacks on foreign students, and societal discrimination against indigenous people.

RESPECT FOR HUMAN RIGHTS

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

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

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

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

Prison and Detention Center Conditions.—Prison and detention center conditions generally met international standards, and the government permitted monitoring visits by independent human rights observers.

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

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

Arrest Procedures and Treatment While in Detention.—Police officers may seek an arrest warrant from a magistrate when a suspect cannot be located or fails to appear; however, they also may arrest a person without a warrant if there are reasonable grounds to believe the person committed an offense. Police must inform arrested persons immediately of their legal rights and the grounds for their arrest, and arrested persons must be brought before a magistrate for a bail hearing at the next sitting of the court. However, the law permits police to hold individuals in preventive detention for up to 24 hours without charge if a senior police official finds it is “reasonably necessary to prevent a terrorist act or preserve evidence of such an act.” Individuals may be detained for an additional 24 hours under an extension of the initial court order.

Although the law states that the maximum investigation period for which a person can be held and questioned without charge is 24 hours (unless extended by court order), it also provides that this allowable time for questioning a suspect can be spread across an unspecified number of days (a concept known as “dead time”)—a provision criticized by human rights groups, the media, and the legal profession. In August the government released a discussion paper on proposed changes to national security legislation that included a proposal to replace “dead time” with a seven-day limit on holding a suspect for questioning. Action had not been taken on that proposal by year’s end.

A separate provision of law permits the attorney general to grant the Australian Security Intelligence Organization (ASIO) authority to detain a person for a continuous period of up to 168 hours in special circumstances, such as “reasonable grounds for believing that issuing the warrant to be requested will substantially assist the collection of intelligence that is important in relation to a terrorism offence.” However, ASIO has not used this authority.

The law permits a judge to authorize “control orders” on individuals suspected of involvement with terrorism-related activities. These orders may include a range of measures, such as monitoring of suspects and house arrest, and may be in effect for up to a year without the filing of criminal charges. If a control order is still warranted after one year, a new order must be sought from a court.

Bail generally is available to persons facing criminal charges unless the person is considered to be a flight risk or is charged with an offense carrying a penalty of 12 months’ imprisonment or more. Attorneys and families were granted prompt access to detainees. Government-provided attorneys are available to provide legal advice to detainees who cannot afford counsel.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected judicial independence in practice.

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

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

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

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

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

Internet Freedom.—There were no government restrictions on access to the Internet or reports that the government routinely monitored e-mail or Internet chat rooms. Law enforcement agencies require a warrant to intercept telecommunications, including Internet communications. In emergency situations the director general of ASIO, for example, may issue a warrant for this purpose without prior judicial authorization, but the attorney general must be informed.

The Australian Communications and Media Authority (ACMA) maintains a list of so-called “refused classification” Web site content, primarily pertaining to child pornography, sexual violence, and other activities illegal in the country, compiled as a result of a consumer complaints process. ACMA may issue a notice to the provider to remove domestically hosted “refused classification” material, or links to such material, that is the subject of such a complaint, if an ACMA investigation concludes the complaint is justified. The list is made available to providers of filtering software.

Individuals and groups engaged in the peaceful expression of views via the Internet, including by e-mail. The Internet was widely used. According to the Australian Bureau of Statistics (ABS), 72 percent of households had Internet access as of June.

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

b. Freedom of Peaceful Assembly and Association.—While the rights of peaceful assembly and association are not codified in law, the government generally respected these rights in practice.

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

Societal Abuses and Discrimination.—According to the 2006 census, the country's Jewish community numbered 88,832 persons. In the 12-month period ending September 30, an annual report on anti-Semitism by the Australia/Israel and Jewish Affairs Council, a nongovernmental organization (NGO), recorded 962 anti-Semitic incidents, compared with 652 during the previous 12 months. According to the report's author, the overall increase resulted primarily from "new peaks" in reported incidents of harassment of Jewish citizens on the street, such as abusive remarks directed at Jewish persons walking to or from synagogue services, and in anti-Semitic e-mails and Internet postings. On the other hand, the report also noted a "marked decrease" in physical assaults against Jewish persons and property, with 27 such incidents reported compared with 58 and 46 respectively during the previous two years. Telephone threats, hate mail, and anti-Semitic graffiti also were reported at rates below the 20-year average for such incidents.

In May a Perth man was charged under Western Australia (WA) racial vilification laws for allegedly posting anti-Semitic videos on the Internet. The case remained pending at year's end.

In February the local council in Gold Coast, Queensland State, unanimously approved plans to construct an Islamic school. In June the New South Wales (NSW) Land and Environment Court upheld a decision by the local council in Camden, NSW to reject the construction of an Islamic school on planning grounds alone. Some Christian leaders in the area had claimed that the school was "incompatible with the Australian way of life."

The government promoted acceptance of diversity through a number of programs, including public awareness programs conducted by the Human Rights and Equal Opportunity Commission (HREOC) and the Department of Immigration and Citizenship (DIAC). The National Action Plan (NAP) for Social Cohesion, Harmony, and Security was developed in 2005-06 with the assistance of state governments. A particular focus of the plan was engaging the Muslim community with the broader society. The NAP's Diverse Australia Program funded projects in areas considered "hotspots" of racial and cultural tension. The 16-member Australian Multicultural Advisory Council provides the government with advice on "social cohesion issues relating to Australia's cultural and religious diversity."

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

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

Protection of Refugees.—The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 protocol. Its laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government funded refugee resettlement services such as language and employment programs.

In October the Australian customs vessel *Oceanic Viking* picked up 78 Tamil asylum seekers from Sri Lanka in Indonesia's search and rescue zone. The Tamils initially refused to disembark from the vessel unless the Australian government agreed to take them to Australia for processing. After a standoff lasting several weeks, the asylum seekers agreed to disembark for processing in Indonesia after Australian officials assured them the UNHCR would process applications and resettlement expeditiously. All had disembarked by November 18, and the government assigned a mobile team of five immigration officers to Indonesia to help process their claims. Some media commentators, opposition politicians, and asylum seekers in the country asserted that the 78 were receiving special treatment not extended to other asylum seekers; the government denied this was the case.

Unauthorized arrivals are processed at the Christmas Island detention center, located off the country's northwest coast. In 2008 the government announced major changes to the mandatory detention policy for unauthorized arrivals. Under the new policy—following health, identity, and security checks—unauthorized arrivals remain in immigration detention while their applications are being processed only if it is determined that they pose a threat to the community. However, the HREOC reported that in practice a “shortage of community-based accommodation appears to be preventing the release of some detainees from closed detention facilities into community detention.” The HREOC also called for the end of the “two-tiered” system for unauthorized arrivals, whereby those who are intercepted on the mainland have more legal rights than those who arrive in a so-called “excised” offshore location (for example, Christmas Island). In September Parliament passed legislation abolishing liability of detained migrants for detention costs. (In practice most of this debt was written off.) Human rights groups welcomed the change.

DIAC provided immigration advice and assistance to persons making an initial asylum claim or application for lawful residence. DIAC also has a statutory obligation to facilitate access to legal representation for persons in immigration detention.

As of October 30, there were 1422 persons in immigration detention, including 284 on the mainland and 1138 on Christmas Island. Although delays in processing asylum applications were not a significant problem during the year, a small number of asylum seekers remained in long-term detention despite having exhausted the appeal process. They could not be returned to their home country because they lacked travel documents or could not obtain necessary transit visas. The commonwealth ombudsman reviews all cases of persons in detention two years or more.

As of September 14, there were 17 persons in immigration detention longer than two years. Detention facilities were monitored by Parliament, the ombudsman, the UNHCR, and an advisory group comprising experts in immigration and humanitarian issues.

During a visit to the country in November, Amnesty International Secretary General Irene Khan welcomed the changes made to immigration detention policy but urged the government to close the Christmas Island detention center and process unauthorized arrivals on the mainland. On November 21, violence broke out at the center between groups of Afghan and Sri Lankan asylum seekers, who assaulted each other with tree branches, pool cues, and broom handles. Approximately 150 detainees were involved in the incident; 37 persons were reported injured, including four who were transferred to a hospital in Perth. The authorities were investigating the incident at year's end. Advocates for the asylum seekers asserted that overcrowding was a contributing factor in the unrest. The center originally could accommodate approximately 800 persons. In response to a surge in unauthorized arrivals during the year, by December the government had expanded the center's holding capacity to 1560 persons, including some tent accommodations. The facility was approaching this capacity at year's end.

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

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage and mandatory voting.

Elections and Political Participation.—In federal elections held in 2007, the ALP won a majority of seats in the lower house of Parliament, and ALP leader Kevin Rudd became prime minister. Political parties operated without restriction or outside interference.

There are no legal impediments to public office for women or indigenous people. There were 67 women in the 226-seat federal Parliament (40 in the House of Representatives and 27 in the Senate). There were four female ministers in the 20-member federal cabinet, three women among the 10 ministers outside the cabinet, and three women among the 12 parliamentary secretaries. There were two women among the eight premiers and chief ministers of the six states and two territories. The deputy prime minister and the governor-general were women, and there were three female judges on the seven-member High Court.

Indigenous people generally were underrepresented among the political leadership. There were no indigenous citizens in the federal Parliament. There was one indigenous citizen in the Tasmania State parliament, one in the NSW State parliament, two in the WA State parliament, and five in the Northern Territory (NT) legislative assembly. The NT deputy chief minister was an indigenous woman. There was one Asian-Australian in the federal cabinet.

Section 4. Official Corruption and Government Transparency

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

Queensland, WA, and NSW have independent anticorruption bodies that investigate alleged government corruption, and every jurisdiction has an ombudsman who investigates and makes recommendations in response to complaints about government decisions. Public officials are subject to financial disclosure laws. In July a former Queensland government minister was sentenced to seven years' imprisonment for receiving secret payments from two businessmen. Also in July, the Queensland Crime and Misconduct Commission released a report into police misconduct, much of it relating to improper relationships with criminal informants. The report implicated 25 officers, recommending that disciplinary action be considered against 17 and that a further six receive managerial guidance. Of the latter six, five were given managerial guidance. Among the remaining 17, five resigned or retired before charges were heard, six received managerial guidance, and misconduct was proven against three. Of those three, one officer was dismissed, one resigned, and one applied for medical retirement. Three officers (including two of the 17) were charged with perjury; those cases were pending at year's end.

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

The Australian Press Association and others have criticized the FOI application process as unduly lengthy and costly, particularly with regard to requests for non-personal information. On March 24, Australia's Right to Know Coalition, an organization composed of 12 major media outlets, held a conference in Sydney to voice concerns about what the group called a lack of transparency on the part of government officials, and to call for reform of the country's FOI and secrecy laws to provide for greater public access, including media access, to government information. The government announced proposed changes to the laws in response to expressed concerns, but the proposals were not implemented by year's end.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

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

The government cooperated with international governmental organizations and permitted visits by UN representatives and other organizations.

In April the UN Human Rights Committee released its Concluding Observations on Australia. It welcomed the government's National Human Rights Consultation Process (NHRCP), which was reviewing human rights protections (see section 6), and the 2008 apology to the "stolen generations" of indigenous people. It also made a number of recommendations, among them that the country ensure that its antiterrorism laws and practices were in conformity with the International Covenant on Civil and Political Rights; consider abolishing the remaining elements of its mandatory immigration detention policy (see section 2.d.); implement the recommendations made in the committee's Immigration Detention Report of 2008; consider closing down the Christmas Island detention center; enact in legislation a comprehensive immigration framework in compliance with the covenant; and increase its efforts for effective consultation with indigenous people in decision making that impacted their rights. The government was asked to provide relevant information to the committee within a year on its implementation of the recommendations. The government had not yet issued its reply by year's end.

UN special rapporteurs on health and indigenous issues also visited the country during the year and issued reports (see section 6).

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Federal laws prohibit discrimination based on sex, disability, race, color, descent or national or ethnic origin, marital status, or age. An independent judiciary and a network of federal, state, and territorial equal opportunity offices effectively enforced the law. The HREOC investigates complaints of discrimination or breaches

of human rights under the federal laws that implement the country's human rights treaty obligations. In December 2008 the government launched a National Human Rights Consultation Process (NHRCP) to seek the public's views on how to better protect human rights. In this connection the government noted that "the options identified should preserve the sovereignty of the Parliament and not include a constitutionally entrenched bill of rights." On September 30, the NHRCP committee released its report. Recommendations included an audit of legislation to determine compliance with international obligations, establishment of a joint parliamentary committee on human rights, adoption of a human rights act, and a national human rights education campaign.

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

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

According to the ABS, approximately one in three Australian women experienced physical violence during their lives, and almost one in five experienced sexual violence. Aboriginal women were 40 times more likely to be victims of family violence compared to other women. Domestic violence was believed to be widely underreported in indigenous communities; among reasons cited for this were cultural factors and the isolation of many indigenous communities. The federal and state governments funded programs to combat domestic violence and support victims, including funding of numerous women's shelters. Police were trained in responding to domestic violence.

Prostitution is legal or decriminalized in several states and territories, and the governments of Victoria, Queensland, NSW, and the Australian Capital Territory (ACT) license brothels operating within their borders. However, some brothels operated illegally. In some locations state-funded sexual health services employees visited brothels to educate workers about sexual health matters and to prevent worker mistreatment. Local governments or prostitution licensing authorities inspected brothels to ensure compliance with planning laws and licensing requirements, including health and safety regulations. However, government officials faced difficulties enforcing health and safety standards in illegal, unlicensed brothels. Some women, primarily from Asia, were trafficked for prostitution. The Australian Federal Police (AFP), state police, and DIAC worked together to identify and close down illegal brothels.

The Sex Discrimination Act prohibits sexual harassment. Complaints of such harassment can give rise to criminal proceedings or disciplinary action against the subject of the complaint and to compensation claims by the complainant.

Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children. State and territorial governments provided comprehensive sex education and sexual health and family planning services. Women had access to contraception and skilled medical care, including essential obstetric and postpartum care, and women and men had equal access to diagnosis and treatment for sexually transmitted infections, including HIV. Indigenous persons in isolated communities had more difficulty accessing such services than the population as a whole. Cultural factors and language barriers also inhibited use of sexual health and family planning services by indigenous persons, and rates of sexually transmitted diseases and teenage pregnancy among the indigenous population were higher than among the general population.

The independent federal sex discrimination commissioner, who is part of the HREOC, undertakes research, policy, and educational work designed to eliminate discrimination between men and women. There also is a federal Office for Women.

The HREOC received 547 complaints alleging 964 grounds of discrimination under the Sex Discrimination Act from July 2008 through June 2009. Of these, 22 percent alleged discrimination based on pregnancy, and 22 percent alleged sexual harassment. The commission resolved 542 of the complaints, 246 by conciliation.

Women have equal status under the law, and the law provides for pay equity. The law requires organizations with 100 or more employees to establish a workplace program to remove barriers to women entering and advancing in their organization.

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

Children.—Citizenship is not derived by birth in the country. Children are citizens if at least one parent was a citizen or permanent resident at the time of the child's birth. Children born in the country to parents who are not citizens or perma-

ment residents acquire citizenship on their tenth birthday if they have lived most of their life in the country.

Through the welfare system, the government provides a financial “baby bonus” to assist families with the cost of new children.

State and territorial child protection agencies investigate and institute prosecutions of persons for child neglect or abuse. All states and territories have laws or guidelines that require members of certain designated professions to report suspected child abuse or neglect. The federal government’s role in child abuse prevention is limited to funding research and education campaigns, developing an action plan against the commercial exploitation of children, and funding community-based parenting programs.

According to the Australian Institute of Health and Welfare, there were 55,120 substantiated cases of child abuse and neglect from July 2007 to June 2008, the latest period for which national statistics were available. These included physical abuse, sexual abuse, emotional abuse, and neglect. The Child Sex Tourism Act prohibits child sex tourism and related offenses for the country’s residents and citizens overseas and provides for a maximum sentence of 17 years’ imprisonment upon conviction. During the year the government continued its awareness campaign to deter child sex tourism through the distribution of materials to citizens and residents traveling overseas.

The legal age for consensual sex is 16 in the ACT, NSW, NT, Victoria, and WA, and 17 in Tasmania and South Australia. In Queensland the age of consent for anal sex is 18, while the age of consent for all other sexual behavior is 16. Maximum penalties for violations vary across jurisdictions. Defenses include reasonable grounds for believing that the alleged victim was above the legal age of consent and situations in which the two persons are close in age.

The government has enacted tough criminal laws aimed at restricting the trade in, and possession of, child pornography; the law allows suspected pedophiles to be tried in the country regardless of where the crime was committed. All states and territories criminalize the possession, production and distribution of child pornography. Maximum penalties for these offenses range from four to 21 years’ imprisonment. Federal laws criminalize using a “carriage service” (for example, the Internet) for the purpose of possessing, producing, and supplying child pornography. The maximum penalty for these offenses is 10 years’ imprisonment and/or a fine of A\$275,000 (approximately \$245,540).

The AFP worked with its international partners to identify and charge persons involved in the online exploitation of children, and the government increased the number of staff dedicated to online child protection.

The government largely continued federal emergency intervention measures initiated by its predecessor to combat child sexual abuse in 73 NT Aboriginal communities. The measures were taken following a 2007 government report of widespread such abuse. These measures included emergency bans on alcohol and pornography sales, restrictions on the payment of welfare benefits in cash, linkage of support payments to school attendance, and medical examinations for all NT indigenous children under age 16. While public reaction to the intervention remained generally positive, some Aboriginal activists asserted that there was inadequate consultation and that the measures were racially discriminatory. The UN special rapporteur on the situation of human rights and fundamental freedoms of indigenous people, who toured NT indigenous communities in August, echoed these concerns. An Australian Institute of Health and Welfare report released in December suggested the intervention had significantly improved health outcomes for indigenous children, although the report also noted that continuing follow-up services would be needed because of the chronic nature of many of the children’s medical problems.

In November the prime minister apologized on behalf of Parliament to individuals abused as children in orphanages and foster care. Some had been sent from the United Kingdom to help populate Australia; this occurred until the early 1970s.

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

Some women, primarily from the People’s Republic of China (PRC), the Republic of Korea (ROK), and Southeast Asia, entered the country for the purpose of prostitution, sometimes entering with fraudulently obtained tourist or student visas. Many of these women traveled to the country voluntarily to work in both legal and illegal brothels but under conditions that amounted to debt bondage or sexual servitude. Some men and women from several Pacific islands, India, the PRC, the ROK, the Philippines, and Ireland recruited to work temporarily in Australia subsequently were subjected to conditions of forced labor. Child protection NGOs raised community awareness of child trafficking. There were no reports of children trafficked into

the country during the year. Some minor indigenous girls were subjected to forced prostitution at rural truck stops.

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

The law comprehensively criminalizes “people trafficking” offenses, including sexual servitude, slavery, deceptive recruitment, debt bondage, child trafficking, and domestic trafficking. These offenses carry penalties of up to 25 years’ imprisonment for slavery, debt bondage, child trafficking, and domestic trafficking; 15 years for sexual servitude; and seven years for deceptive recruitment. It is an offense for citizens or residents to travel abroad to engage in sex with minors under age 16.

In September two men were sentenced to 14 and 10 years’ imprisonment respectively for involvement in a sex slavery scheme that brought Thai women to Melbourne brothels. The court was told the women had to service up to 750 clients before their “debt” was paid.

The government had a wide range of programs to combat trafficking, prosecute traffickers, and assist trafficking victims. The AFP and DIAC have lead roles in combating trafficking in persons. The AFP’s Transnational Sexual Exploitation and Trafficking Teams are responsible for investigating trafficking syndicates operating in the country and abroad. State police forces worked closely with the AFP on a comprehensive policing strategy to counter trafficking in persons. According to a report published in October by the Australian Institute of Criminology, between January 2004 and December 2008, the AFP conducted 210 trafficking investigations, charged 34 persons, and recorded seven convictions, while 113 persons received assistance from the government’s victim support program.

An ambassador for people-smuggling issues is responsible for promoting a coherent and effective international approach to combating trafficking in persons (particularly in the Asia-Pacific region), assisting in the negotiation of international agreements for the return and resettlement of persons brought illegally into the country, and working for the prosecution of traffickers. The ambassador coordinates the country’s participation with Indonesia in the Bali Process on People Smuggling, Trafficking in Persons, and Related Transnational Crime. The government has antitrafficking agreements with Cambodia, Burma, Laos, and Thailand designed to improve international cooperation and police investigation of trafficking syndicates. The government also funded awareness campaigns in source countries and continued funding the Asia Regional Cooperation to Prevent People Trafficking project. Underway in four countries—Thailand, Laos, Burma, and Cambodia—the project focused on strengthening the criminal justice process to combat trafficking in persons.

Within the country the government continued an awareness campaign targeting the sex industry and the community at large and widely publicized criminal cases against traffickers. Trafficking victims willing to cooperate with authorities in the investigation and prosecution of traffickers qualify for a temporary visa and a range of social services. In June the government announced changes to improve victims’ ability to access this assistance, including offering such support regardless of whether a victim was willing to assist police, reducing the time needed to qualify for a permanent visa, and enabling family members outside the country to be included in a visa application. Between July 1, 2008 and June 30, 2009, DIAC granted 77 visas under the “people trafficking” visa framework.

In March the government established guidelines to assist NGOs that were often the first point of contact for trafficking victims. Counseling, temporary shelter, and other assistance were available to all trafficking victims.

The Department of State’s annual Trafficking in Persons Report can be found at www.state.gov/j/tip/.

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

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

The HREOC’s July 2008 to June 2009 annual report stated that 980 complaints citing 1,474 alleged grounds of discrimination were filed under the Disability Discrimination Act during that period. Of these, 40 percent were employment related,

and 35 percent involved the provision of goods and services. The resolved 1,117 complaints, 518 of them through conciliation.

During the year the government began development of a national disability strategy.

National/Racial/Ethnic Minorities.—According to the HREOC's July 2008 to June 2009 annual report, it received 396 complaints under the Racial Discrimination Act (RDA), citing 617 alleged grounds of discrimination. Of these, 54 percent involved employment, 23 percent involved provision of goods and services, and 10 percent alleged "racial hatred." Persons born outside the country filed 45 percent of the complaints, and Aboriginals and Torres Strait Islanders filed 42 percent. Of the 396 complaints, 392 were resolved, 206 through conciliation.

During 2008 and 2009, there were a number of incidents of possibly racially motivated assaults against Indian and Chinese students. In late May and early June, Indian students in Melbourne and Sydney held rallies protesting violent attacks some claimed were racially motivated. Subsequently, the government formed a taskforce headed by the prime minister's national security adviser and discussed the issue with the Indian government. Victoria police also increased their presence in neighborhoods where many Indian students resided.

Indigenous People.—According to the 2006 census, Aboriginals and Torres Strait Islanders numbered approximately 517,200 persons, approximately 2.5 percent of the total population.

Indigenous ownership of land is predominately in non-urban areas; the land was previously government owned. The 1976 Federal Aboriginal Land Rights (Northern Territory) Act transferred almost 50 per cent of land in the NT to indigenous ownership. The National Native Title Tribunal resolves native land title applications through mediation and acts as an arbitrator in cases where the parties cannot reach agreement about proposed mining or other development of land. In 2002 the High Court ruled that native title rights do not extend to mineral or petroleum resources and that, in cases where leasehold rights and native title rights are in conflict, leaseholder rights prevail but do not extinguish native title rights. As of year's end, the WA government was attempting to negotiate an out-of-court native title agreement with the Nyoongar people, a development that the HREOC characterized as "long-awaited good news." In 2008 the Federal Court had overturned on technical grounds a 2006 federal court judge's decision recognizing Nyoongar native title to the land in question and referred the case back for another hearing on the merits.

The A\$1.7 billion (approximately \$1.5 billion) Indigenous Land Corporation is a special account that provides a continuing source of funds for indigenous people to purchase land for their use. It is separate from the Native Title Tribunal and is not for payment of compensation to indigenous people for loss of land or to titleholders for return of land to indigenous people.

As part of the NT intervention to address child sexual abuse in NT indigenous communities (see section 6, Children), the government took control of certain indigenous communities through five-year land leases. However, the government warned it would permanently acquire some townships in Alice Springs unless the townships relinquished control of services and signed 40-year leases with the government. (These townships are not Aboriginal land but special-purpose leases granted to local indigenous associations by the NT government.)

The government expressed a commitment to "closing the gap" on indigenous disadvantage, and in 2008 the prime minister undertook to report to Parliament on this at the beginning of each year. The government budgeted A\$4.3 billion (approximately \$3.8 billion) for indigenous-specific services in 2008-09 and A\$4.8 billion (approximately \$4.3 billion) in 2009-10.

In July the Productivity Commission reported improvements among the indigenous population in key indicators such as income, employment, home ownership, infant mortality, and completion of secondary school. However, significant gaps remained between indigenous and nonindigenous citizens in these and other key areas. The imprisonment rate for indigenous citizens worsened between 2000 and 2008. Indigenous adults were 13 times as likely as nonindigenous adults to be imprisoned in 2008, compared with 10 times as likely in 2000. According to the Australian Institute of Health and Welfare, life expectancy for indigenous persons was 59 years for males and 65 for females, compared with 77 and 82 respectively for the nonindigenous.

A UN special rapporteur on health visited the country between November 24 and December 4 and met with senior officials. He praised the government's additional investment in indigenous health services but expressed concern about inadequate access to such services, "often due to direct discrimination and culturally inappro-

priate services being provided.” The indigenous health minister noted that the government had increased the indigenous health budget by 57 percent in two years.

During the year a former NT minister for indigenous affairs criticized the NT government’s handling of a two-year-old A\$672 million (approximately \$600 million) indigenous housing and infrastructure program, noting that no houses had been built yet. The program was part of the broader NT intervention program.

In August the UN special rapporteur on indigenous issues reported on the human rights of indigenous people following an 11-day visit that included a meeting with the indigenous affairs minister. While praising efforts to address indigenous disadvantage and moves to establish a national indigenous representative body, the report asserted that the NT intervention was incompatible with the country’s international obligations and urged the government to make it compliant with the RDA. The minister stated that the government was consulting with indigenous people and was seeking to make the intervention compliant with the RDA.

On November 22, the government announced the establishment of a new national representative body for Aboriginals and Torres Strait Islanders, to be known as the National Congress of Australia’s First Peoples. It was expected to be fully operational by January 2011.

Indigenous NGOs included groups working on native title issues, reconciliation, deaths in custody, and indigenous rights in general. International NGOs, such as Amnesty International, also monitored and reported on indigenous issues and rights. The HREOC has an Aboriginal and Torres Strait Islander social justice commissioner.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—In 2008 and 2009, the government amended 84 laws to eliminate discrimination against same-sex couples and their children in a wide range of areas, including taxes, child support, immigration, pensions, and social security. A large number of these reforms came into effect on July 1.

A number of gay, lesbian, bisexual, and transgender NGOs were openly active in the country, and gay pride marches took place in major cities; police provided sufficient protection to participants.

The HREOC received 17 complaints of employment discrimination based on sexual orientation from July 2008 through June 2009.

Other Societal Violence or Discrimination.—Federal and various state laws prohibit discrimination on the grounds of HIV-positive status. The HREOC reviews complaints of discrimination on the grounds of HIV/AIDS status under the category of disability-related complaints, but a specific breakdown of HIV/AIDS-related cases was not available. There were no reports of violence against persons based on HIV/AIDS status.

Section 7. Worker Rights

a. The Right of Association.—The law provides workers, including public servants, the right of association domestically and internationally and protection against antiunion discrimination, and workers exercised these rights in practice. An ABS survey released in April indicated that in 2008, union membership was 19 percent of the total workforce and 13.6 percent of the private-sector workforce—virtually identical to 2007 percentages. Unions carried out their functions free from government or political control.

In March Parliament passed the Fair Work Act, the major component of the government’s workplace reforms, which replaced the Workplace Relations Act as the country’s basic labor law. Some provisions of the Fair Work Act became effective during the year, while others were scheduled to go into effect in 2010.

Under the law workers are free to join or decline to join industrial associations, and discrimination against individuals for membership or nonmembership in a union is prohibited.

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

According to the ABS, during the 12-month period ending September 30, 2012 industrial disputes began, 33 more than during the previous 12 months. (Industrial

disputes include both strikes and employer-initiated work stoppages, such as lockouts.) During the same period, total workdays lost due to industrial disputes fell from 189,800 to 119,100.

b. The Right to Organize and Bargain Collectively.—Federal, state, and territorial laws provide workers with the right to organize and bargain collectively, and workers exercised this right in practice.

Under the WRA negotiation of contracts covering wages and working conditions shifted further from a centralized awards system to enterprise-level agreements certified by the Australian Industrial Relations Commission (AIRC). The WRA also provided for the negotiation of Australian Workplace Agreements (AWAs) between employers and individual workers, which were subject to fewer government regulations than awards or enterprise bargaining agreements.

Transitional amendments to the WRA in March 2008 abolished the signing of new AWAs and established a new “no disadvantage” test for future workplace agreements designed to ensure that they contain basic worker protections. Existing AWAs may continue until their expiration, and businesses that had staff on AWAs before December 1, 2007 could continue to sign individual contracts, known as Individual Transitional Employment Agreements (ITEAs), provided these passed the “no disadvantage” test. To do so, an ITEA must not disadvantage an employee as compared to an applicable collective agreement or to an industry-standard award if there is no collective agreement. ITEAs could only run until December 31, 2009. In addition, the 2008 law directed the AIRC to create a national safety net of minimum employment standards and industrial awards, which is scheduled to come into effect in 2010.

On July 1, new collective bargaining provisions came into effect under the Fair Work Act that require employers to act in “good faith” when a majority of employees want a collective agreement; give unions greater ability to access worksites; enable low-paid workers to engage in multi-employer “good faith bargaining”; reduce the list of “prohibited content” issues that may not be included in a collective agreement; and give stronger intervention powers to a new independent industrial relations umpire, Fair Work Australia, which was scheduled to assume the functions of the AIRC and other workplace bodies in 2010. Also on July 1, new provisions took effect providing unfair dismissal rights—previously removed under 2005 amendments to the WRA known as WorkChoices—to employees in small businesses.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law explicitly prohibits forced or compulsory labor; however, trafficking in persons was a limited problem.

d. Prohibition of Child Labor and Minimum Age for Employment.—There is no federally mandated minimum age of employment, but state-imposed compulsory educational requirements, enforced by state educational authorities, effectively prevented most children from joining the work force full time until they were 15 or 16 years of age. Federal and state governments monitored and enforced a network of laws, which varied from state to state, governing the minimum ages for leaving school, claiming unemployment benefits, and engaging in specified occupations. The Australian Council of Trade Unions also monitored adherence to these laws. Workers under age 18 required parental or guardian consent to sign an ITEA.

e. Acceptable Conditions of Work.—Although a formal minimum wage exists, most workers received higher wages through enterprise agreements or individual contracts. There are above-minimum wage classifications for individual trades and professions. In July the Australian Fair Pay Commission, which determines minimum wage increases, maintained the federal minimum award wage at A\$543.78 (approximately \$485) per week, citing deteriorating economic conditions. The Fair Work Ombudsman provides employers and employees advice about their rights and has authority to investigate employers alleged to have exploited employees unlawfully.

Over the past two decades, there has been a substantial increase in the percentage of the workforce regarded as temporary workers. The ABS reported that, as of December, approximately 3.27 million persons (30 percent of the workforce) were employed as “part-time” workers, of whom 70 percent were women. Labor force “underutilization” was 13.5 percent as of November. Federal or state occupational health and safety laws apply to every workplace. The law provides federal employees with the right to cease work without endangering their future employment if they believe that particular work activities pose an immediate threat to individual health or safety. Most states and territories have laws that grant similar rights to their employees. Employees have recourse to state health and safety commissions, which investigate complaints and order remedial action.

Labor law protects citizens, permanent residents, and migrant workers. Migrant worker visas require that employers respect these protections and provide bonds to

cover health insurance, worker's compensation insurance, unemployment insurance, and other benefits. However, there were complaints that some individuals on so-called "457" employer-sponsored, skilled-worker visas were being underpaid and used as a less expensive substitute for Australian workers. In response, during the year the government tightened eligibility requirements for 457 visas, including increasing minimum salary levels to "market rates" and increasing English language requirements. There were no reports of worker rights abuses in the country's three inhabited dependent territories of Christmas Island, Cocos (Keeling) Island, and Norfolk Island.

BRUNEI DARUSSALAM

Brunei Darussalam is a sultanate ruled by the same family for more than 600 years, and it has a population of approximately 391,000. Sultan Haji Hassanah Bolkiah governed under emergency powers that place few limits on his power. The Legislative Council, made up of appointed, indirectly elected, and ex-officio members, with a limited role in recommending and approving legislation, met during the year. The sultan maintained control over the security forces.

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

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits mistreatment of prisoners, and there were no reports of such mistreatment. Caning is mandatory for 42 criminal offenses, and as of October official statistics reported 184 persons caned, most commonly for drug-related offenses and immigration violations. Canings were carried out in the presence of a doctor, who had the authority to interrupt the punishment for medical reasons.

Prison and Detention Center Conditions.—Prison conditions generally met international standards. There were 372 convicted persons and 14 persons awaiting trial. Jerudong Prison holds "serious offenders," and, separately, approximately 40 female prisoners. Juveniles are not subject to imprisonment. The maximum designed capacity of the prison system is 400 persons.

In previous years conditions in police station detention cells were considered Spartan.

In January four policemen were charged for culpable homicide not amounting to murder and voluntarily causing grievous hurt on Abdul Rahim Abdullah Tan, who died in police custody. At year's end the trial of four accused continued.

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

d. Arbitrary Arrest or Detention.—The law provides for prompt judicial determination regarding the validity of an arrest, but in practice these provisions were superseded through invocation of emergency powers.

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

Arrest Procedures and Treatment While in Detention.—A magistrate must endorse a warrant for arrest, except when police are unable to obtain an endorsement in time to prevent the flight of a suspect. Police officers have broad powers to make arrests without warrants of persons caught in the act of committing a crime. After arrest police may detain a suspect up to 48 hours before bringing the individual before a magistrate. There were instances of persons considered a threat to the public who were detained for years without trial.

The Internal Security Act (ISA) permits the government to detain suspects without trial for renewable two-year periods. According to reports, detainees were

promptly informed of the charges against them. Information on detainees was made public only after their release.

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

In January foreign national Aji Ajak was released from detention under the ISA. Aji Ajak was detained for his involvement in counterfeiting activities.

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

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

The judiciary consists of the Supreme Court, intermediate courts, and subordinate courts, with a final appeal for civil cases available through the Privy Council in the United Kingdom. A Shari’a (Islamic law) court with three levels supersedes the secular courts for Muslims in cases of divorce, inheritance, and some sexual crimes. Shari’a is not applied to non-Muslims.

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

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

Political Prisoners and Detainees.—There were no reports of political prisoners or detainees. The government confirmed that as of November there were no detainees being held under the ISA.

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

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law permits government intrusion into the privacy of individual persons, families, and homes. Shari’a permits enforcement of khalwat, an Islamic prohibition on the close proximity of a Muslim and a member of the opposite sex other than a spouse or close male relative. During the year 262 khalwat cases were reported.

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

Section 2. Respect for Civil Liberties, Including:

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

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

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

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

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

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

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

Internet Freedom.—According to International Telecommunication Union statistics for 2008, approximately 55 percent of the country's inhabitants used the Internet. The government monitored private e-mail and Internet chat room exchanges of citizens believed to be subversive. There was anecdotal information that fear of government surveillance reduced the number of visitors to Internet forums. The primary Internet service provider was state owned.

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

A Censorship Board made up of officials from the Ministries of Home Affairs, Religious Affairs, and the Prime Minister's Office determines the suitability of concerts, movies, cultural shows, and other public performances. Religious authorities also review publications to ensure compliance with social norms.

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

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

In November 2008 the ROS deregistered the Football Association of Brunei for failing to submit annual general meeting reports for the previous two years.

A Brunei political party maintained that government restrictions limited the party's growth.

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

The government used its internal security apparatus against persons it considered to be purveyors of radical Islam, non-Muslims who attempted to proselytize, and religious groups that did not belong to the official religion.

Registration is required by law for a group to worship communally. An organization that fails to register can face charges of unlawful assembly. All non-Shafi'i religious groups are required to register as associations. There continued to be credible

reports that certain Christian groups were denied permission to register or chose not to register out of the expectation that their applications would be rejected.

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

Muslims who wished to change or renounce their religion faced considerable difficulties. Born Muslims faced both official and societal pressure not to leave Islam; permission from the Ministry of Religious Affairs must be obtained to do so. During the year the ministry recorded four applications from Muslims wishing to renounce the religion. Applicants were required to undergo counseling prior to the finalization of an endorsement. In 2008 the ministry sanctioned one renunciation of Islam. There were instances of persons who converted to Islam (often foreign nationals) as a prelude to marrying Muslims; conversion is required by the country's Islamic law. As of July 2008, 653 persons had converted to Islam. After marriage those who wished to return to their former religion faced intense official pressure not to do so or encountered extraordinary delays in obtaining permission.

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

The Ministry of Education requires courses on Islam and the national ideology, and prohibits the teaching of other religions and comparative religious studies. Private Christian schools were not allowed to give Christian instruction to Christian or Muslim students but could offer voluntary, Islamic instruction to Muslim students. During the year the government warned Christian schools that they or their personnel could be fined or imprisoned for teaching non-Muslim religious subjects. However, the government did not prohibit or restrict parents from giving religious instruction to children at home.

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

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

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

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

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. Government employees, both citizens and foreigners working on a contractual basis, must apply for approval to go abroad. In September the government introduced guidelines stating that no government officials may travel alone and nonrelated male and female officers may not travel together. The government restricts the movement of former political prisoners during the year following their release. The country is not a party to the Convention relating to the Status of Refugees and its 1967 Protocol and does not cooperate with office of the UN High Commissioner for Refugees.

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

Protection of Refugees.—The laws do not provide for the granting of asylum or refugee status in accordance with the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and the government has not established a system for providing protection to refugees. In practice the government did not provide protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

Stateless Persons.—The law, which was administered on a case-by-case basis, allows citizenship to permanent residents who have contributed to the country's economic growth, to women married to citizens for two years, to women married to permanent residents for five years, and to children of permanent resident fathers after the age of two years and six months. According to unofficial sources there were approximately 20,000 "stateless" persons in the country, including persons born and raised in the country who were not automatically accorded citizenship and its attendant rights but were granted permanent resident status. The births of members of the Dusun and Iban indigenous groups living in rural areas often were not registered. This coupled with illiteracy made it difficult to issue certificates of identity to such persons. Government policy mandates that a child of stateless parents born in the country must apply for a special pass. These individuals did not enjoy full privileges of citizenship, they did not have the right to own land, and were not entitled to subsidized health care or higher education. In July the Land Code Strata Act, which allows permanent residents to own unit/s of multistory property for a maximum of 99 years, came into force. In lieu of passports, the government issued "certificates of identity" to allow these persons international travel and reentry; foreign visas may be entered in the certificates.

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

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

Citizens did not have the right to change their government peacefully.

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

Elections and Political Participation.—Political authority and control rested entirely with the sultan. A 29-person legislative council (LegCo), which has no independent power and was made up primarily of appointed members, provided a forum for public discussion of proposed government programs as well as administrative deficiencies. It convenes once a year.

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

The Brunei National Development Party (NDP) remained the country's only registered political party. The NDP, as had other parties when they were registered, pledged to support the sultan and the government. Although the parties criticized administrative deficiencies, their few activities received limited publicity and they were hindered by membership restrictions.

In October the NDP cohosted a public seminar on party development and the importance of civil society that included a foreign guest speaker. Reportedly, the authorities confiscated documents on the speaker and the event. Customs officials attempted to confiscate the speaker's books on politics upon his arrival in the country.

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

There were no female ministers in the government or female members of the LegCo. Two women held ministerial rank—the sultan's sister, Princess Masna, ambassador-at-large, in the Ministry of Foreign Affairs and Trade, and Datin Hayati, appointed in August, the first female attorney general. There were two female permanent secretaries, one in the Prime Minister's Office and one in the Ministry of Foreign Affairs and Trade. One cabinet-level post and two LegCo positions were held by ethnic Chinese.

Section 4. Official Corruption and Government Transparency

There were reliable reports of corruption in the government. In accordance with its zero tolerance policy for corrupt practices, the government successfully prosecuted a number of low-level officials. At year's end the case of a former government minister accused of corruption in awarding government projects was pending a final ruling from the chief justice. In September the former minister's alleged partner in crime was declared absconded and an arrest warrant was issued. In December six of 24 custom officers suspended from duty for their alleged role in smuggling heavily subsidized fuel to a neighboring country, were charged under the Prevention of Corruption Act, which carries a penalty of seven years' imprisonment and B\$30,000 fine (\$21,000). The Anticorruption Bureau, under the purview of the Prime Minister's Office, reports directly to the sultan.

Government officials were not subject to financial disclosure reports.

During the year the LegCo approved, and the government published, a summary of the fiscal year government budget. However, the government continued to restrict and classify as confidential some information on the financial dealings of the government and the royal family. The law provides that no court can compel any person to give evidence relating to unpublished government records unless the relevant ministry's permanent secretary gives consent.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Few if any civil society organizations dealt directly with human rights. A non-governmental organization (NGO) seeking to operate in the country is required to apply for permission under the Companies Act and provide a list of members. The government may suspend the activities of a registered NGO if it deems such an act in the public interest. In the past the Consumers' Association of Brunei attempted to address human rights, but the government impeded these attempts. However, the association remained active in building relationships with other NGOs in the region dealing with consumer protection issues. There were NGOs that dealt with such issues as assisting victims of domestic violence.

The government was not known to have interacted with international human rights NGOs.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

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

Women.—The law stipulates imprisonment of up to 30 years and caning with not fewer than 12 strokes for rape. The law does not criminalize spousal rape; it explicitly states that sexual intercourse by a man with his wife, as long as she is not under 13 years of age, is not rape. During the year 27 rape cases were reported; at year's end police were investigating 23 and had forwarded four to the Attorney General Chambers.

There is no specific domestic violence law, but arrests have been made in domestic violence cases under the Women and Girls Protection Act. The police will investigate domestic violence only in response to a report by a victim. The police were generally responsive in the investigation of such cases. During the year there were a total of 124 cases of spousal abuse reported; at year's end 122 cases were under investigation and two had been forwarded to the Attorney General Chambers. The criminal penalty for a minor domestic assault is one to two weeks in jail and a fine. An assault resulting in serious injury is punishable by caning and a longer prison sentence.

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

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

Prostitution is illegal. Women who entered the country for purposes of prostitution generally were tried, sentenced, and deported swiftly. There were isolated instances of women forced into prostitution, and there were also reports that women arrested for prostitution attested to having been victims of trafficking. However, the government did not identify any trafficking victims during the year.

The law prohibits sexual harassment and stipulates that whoever assaults or uses criminal force, intending thereby to outrage or knowing it is likely to outrage the modesty of a person, shall be punished with imprisonment for as much as five years and caning.

Couples and individuals have the right to decide the number, spacing, and timing of their children, and have access to contraceptive devices and methods through the government and private clinics. Citizens enjoy free medical and health care, including skilled attendance during childbirth and essential obstetric and postpartum care. Women had equal access to diagnostic and treatment facilities for sexually transmitted infections.

In accordance with the government's interpretation of Koranic precepts, Muslim women have rights similar to those of Muslim men in areas such as divorce and child custody. The law requires that males receive twice the inheritance of women. The law permits female citizens to pass their nationality on to their children and to own property and other assets, including business properties.

Men were eligible for permanent positions in government service whether or not they had university degrees. In previous years married women without university degrees were eligible to hold government positions only on a month-to-month basis. However, since December 2008 such women were eligible for permanent positions, although they could not apply for travel allowances for their husbands and children. With this exception, they received the same allowance privileges as their college-educated counterparts. According to government statistics, women made up 57 percent of the civil service force and held 28 percent of senior management posts.

Women's issues were addressed by the Women's Council of Brunei, an NGO consisting of 14 women's associations; its objective is to improve the status of women in all areas.

Children.—Birth registration is universal except for Dusun and Iban indigenous persons in rural areas (see section 2.d.). Citizenship is derived through one's parents rather than through birth within the country's territory. Parents with stateless status are required to apply for a special pass for a child born in Brunei; should they fail to register their child, it would be difficult to enroll the child in school.

No statistics were available regarding the welfare of children. The strong commitment to family values within society, the high standard of living, and government funding for children's welfare provided most children a healthy and nurturing environment.

By law sexual intercourse with a female under 14 years of age constitutes rape and is punishable by imprisonment for not less than eight years and not more than 30 years and not less than 12 strokes of the cane. The law protects women, girls, and boys from exploitation through prostitution and "other immoral purposes," including pornography.

Trafficking in Persons.—The country is a destination for men and women trafficked for the purpose of forced labor and commercial sexual exploitation. The Trafficking and Smuggling Persons Order of 2004 prohibits sex and labor trafficking, and violations are punishable by up to 30 years' imprisonment, but there have never been any prosecutions under the order. It was believed that trafficking of foreign workers recruited from Indonesia, the Philippines, Pakistan, India, and Bangladesh took place. Such workers occasionally faced harsh, exploitative conditions in which their freedom of movement was restricted. Many of the 25,000 female domestic workers in the country were required to work exceptionally long hours without being granted a day for rest, creating an environment consistent with involuntary servitude. There were reports that women arrested for prostitution subsequently claimed to have been victims of trafficking. There were also reports that the country was used as a transit stop for traffickers transporting women to third countries. However, the government did not identify any victims of trafficking during the year.

Immigration and other law enforcement officials were trained to investigate and prosecute suspected offenders and to deal with trafficking victims. During the year there were no trafficking cases investigated or prosecuted by the authorities, and there were no reports of government officials involved in trafficking.

The government made limited efforts to protect foreign trafficking victims. There was no formal system of protection or benefits for foreign trafficking victims. While immigration authorities were active in identifying violators of immigration law after they had entered the country, there were no cases reported of immigration authorities identifying potential trafficking victims among such immigration violators. There were no specific NGOs to assist trafficking victims as such, and victims were subject to prosecution for violations of immigration and labor codes. In cases where the government considers a victim to be a material witness in the prosecution of traffickers, police can provide temporary protection and shelter as necessary. Sev-

eral foreign embassies also provided shelter for persons who may have been victims of trafficking.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The law does not mandate accessibility or other assistance for persons with disabilities. The government provided educational services for children with disabilities, but countrywide the level of services available was uneven. The DCD conducted several programs targeted at promoting awareness of the needs of people with disabilities.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—There were no reports of societal violence or discrimination based on sexual orientation. The law makes it a criminal offense to have “sexual intercourse against the order of nature.” There were no reports of official discrimination based on sexual orientation in employment, housing, access to education, or health care.

Other Societal Violence or Discrimination.—There were no reports of societal violence or discrimination against persons with HIV/AIDS.

Section 7. Worker Rights

a. The Right of Association.—Under the Trade Unions Act, unions are legal and must be registered with the government. All workers, including civil servants other than those serving in the military and those working as prison guards or police officers, may form and join trade unions of their choice without previous authorization or excessive requirements; however, in practice trade union activity was minimal. The government discouraged union formation, and employers in the industrial sector did not encourage foreign workers to form unions. The three registered trade unions were in the oil sector and had a total membership of less than 5 percent of the industry's total work force. Official statistics reported 87,867 foreign workers, including 4,636 garment industry workers. None were members of any trade union.

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

The law makes no explicit provision allowing the right to strike. There were no strikes reported during the year.

b. The Right to Organize and Bargain Collectively.—The law prohibits employers from discriminating against workers in connection with union activities but provides no legal framework for collective bargaining. There was very little union activity in the country, and employer discrimination against union members was not reported.

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

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor; however, there were credible reports of some nationals from Asian countries experiencing nonpayment of wages and many of the 25,000 female domestic workers were required to work exceptionally long hours without being granted a day for rest, creating an environment consistent with involuntary servitude.

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

e. Acceptable Conditions of Work.—Most employed citizens commanded good salaries. There is no minimum wage. The standard workweek is Monday through Thursday and Saturday, with Friday and Sunday off, allowing for two rest periods of 24 hours each week. Overtime is required for work in excess of 48 hours per week, and double time is required for work performed on legal holidays, but this frequently was not the case in practice.

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

According to government data, 87,867 foreigners worked in the country. Foreign workers are excluded from most labor law protections, including freedom of association. In the past the rights of the estimated 25,000 female domestic workers frequently were abused and they had little access to legal remedies. During the year the minister responsible for labor was given additional authority to protect their rights, and the government was usually quick to investigate and impose fines and punishment. Employers found guilty of abuses typically were fined or sentenced to prison and ordered to compensate the victim.

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

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

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

During the year there were 10 cases reported of nonpayment of salaries. Eight of the complaints were made by domestic workers and were referred to Attorney General Chambers. Two cases involved complaints made by workers in the formal sector and at year's end both were under investigation.

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

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

BURMA

Burma, with an estimated population of 54 million, is ruled by a highly authoritarian military regime dominated by the majority ethnic Burman group. The State Peace and Development Council (SPDC), led by Senior General Than Shwe, was the country's de facto government. Military officers wielded the ultimate authority at each level of government. In 1990 prodemocracy parties won more than 80 percent of the seats in a general parliamentary election, but the regime continued to ignore the results. In May 2008 the regime held a referendum on its draft constitution and declared the constitution had been approved by 92.48 percent of voters, a figure no independent observers believed was valid. The constitution specifies that the SPDC will continue to rule until a new parliament is convened, scheduled to take place following national elections in 2010. The military government controlled the security forces without civilian oversight.

The regime continued to abridge the right of citizens to change their government and committed other severe human rights abuses. Government security forces allowed custodial deaths to occur and committed extrajudicial killings, disappearances, rape, and torture. The government detained civic activists indefinitely and without charges. In addition regime-sponsored mass-member organizations engaged in harassment, abuse, and detention of human rights and prodemocracy activists. The government abused prisoners and detainees, held persons in harsh and life-threatening conditions, routinely used incommunicado detention, and imprisoned citizens arbitrarily for political motives. The army continued its attacks on ethnic minority villagers. The government sentenced Aung San Suu Kyi—general secretary of the country's independence movement, the National League for Democracy (NLD)—to 18 additional months of house arrest for violating the terms of her confinement. The government routinely infringed on citizens' privacy and restricted

freedom of speech, press, assembly, association, religion, and movement. The government did not allow domestic human rights nongovernmental organizations (NGOs) to function independently, and international NGOs encountered a difficult environment. Violence and societal discrimination against women continued, as did recruitment of child soldiers, discrimination against ethnic minorities, and trafficking in persons, particularly of women and girls. Workers' rights remained restricted. Forced labor, including that of children, also persisted. The government took no significant actions to prosecute or punish those responsible for human rights abuses.

Ethnic armed groups and some cease-fire groups allegedly committed human rights abuses, including forced labor and recruitment of child soldiers.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were numerous reports the government or its agents committed arbitrary or unlawful killings. The government rarely punished officials responsible for the deaths. During the year there were reports of killings in connection with conflict in Shan and Karen states (see section 1.g.).

In May in Rakhine State, government troops reportedly killed two Rohingya attempting to cross the Naff River into Bangladesh.

In May in Magwe Division, military agents killed army sergeant Myint Soe during interrogation regarding the theft of firearms and ammunition from a military armory.

In November in Bago Division, Win Maung reportedly died one day after police interrogated him regarding a theft case. A police agent declared officials would investigate the incident.

In 2008 security forces killed several persons in their custody; however, at year's end no officials had been held accountable. For example, there were no developments in the killings by soldiers and riot police of at least 40 inmates at Insein Prison in May 2008. The government did not investigate or punish those responsible for other custodial deaths in 2008, including the following persons, all of whom died during interrogation: Zawmir Uddin in Rakhine State in February, a medical worker in Khawzar police station in Mon State in May, and a man at Magwe police station in June.

The government took no action to investigate or punish those responsible for extrajudicial killings of at least 30 persons during the regime's violent suppression of peaceful prodemocracy demonstrations in 2007, including Buddhist monk U Thilavantha and Japanese photojournalist Kenji Nagai. Additionally, the government did not investigate or punish those responsible for custodial deaths in 2007, including the following cases: Maung Chan Kun, Lin Lin Naing, Ko Naing Oo, NLD member Win Shwe, and Ko Ko Win.

The government took no action to investigate or take responsibility for the 2003 attack by government-affiliated forces on an NLD convoy led by party leader Aung San Suu Kyi near the village of Depeyin. As many as 70 persons were killed in the incident, and the whereabouts of 31 persons who disappeared remained unknown.

b. Disappearance.—Private citizens and political activists continued to "disappear" for periods ranging from several hours to several weeks or more. Such disappearances generally were attributed to authorities who detained individuals for questioning without informing family members and to the army's practice of seizing private citizens for portering or related duties, often without notifying family members. Military forces routinely ignored requests by family members for information. There were reports of disappearances during the year in connection with conflicts in Shan and Karen states (see section 1.g.).

Ko Naing Ngan Lin, an NLD youth member, disappeared in the last week of June after leaving an Internet cafe in Rangoon. His whereabouts were unknown for four months, until he reappeared at the beginning of November. Family members said he had been held at the Aung Tha Pyay police guest house.

During October 26-27, authorities arrested seven members of Lin Let Kye (Shining Star), a group formed in May 2008 to assist in the Cyclone Nargis relief effort. At year's end the whereabouts of the seven and the reason for their arrest were unknown.

According to an NGO, more than 10 other persons, including entertainers, writers, and press workers, were arrested in October. There was no information on their whereabouts or the reason for their arrest.

The whereabouts of persons seized by military units to serve as porters, as well as of prisoners transferred for labor or portering duties, often remained unknown.

Family members generally learned of their relatives' fates only if fellow prisoners survived and later reported information to the families.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—There are laws that prohibit torture; however, members of the security forces reportedly tortured, beat, and otherwise abused prisoners, detainees, and other citizens. Security forces routinely subjected detainees to harsh interrogation techniques designed to intimidate and disorient. As in previous years, authorities took little or no action to investigate the incidents or punish the perpetrators. There were reports of physical abuse, torture, and rape in connection with conflicts in Shan and Karen states (see section 1.g.).

Between April 10-19, during the annual Thingyan water festival and Burmese New Year, thugs assaulted five NLD members, reportedly on order from the regime, in four separate incidents. At year's end police had not investigated the attacks.

Former political prisoners released in September claimed the government subjected them to eight different types of torture—ranging from forced squatting for prolonged periods of time to electric shocks—during interrogation to extract confessions or intimidate. They also complained of inedible food, beatings, and unsanitary conditions leading to severe health problems. Many were held in solitary confinement and forced to share an eight-by-eight-foot cell with up to three other prisoners with only a bucket to use as a toilet.

Monks in particular allegedly were subjected to cruel treatment. Many monks held since 2007 for participating in the September 2007 prodemocracy protests against the regime were defrocked and forced to eat three meals a day (monks generally do not eat after midday). Authorities beat, sometimes severely, those who resisted.

The armed forces reportedly used coercive and abusive recruitment methods to procure porters. Persons forced into portering or other labor faced extremely difficult conditions, beatings, rape, lack of food and clean water, and mistreatment that at times resulted in death. For example, in Chin State throughout the year there were reports the government army forced villagers to fence an army camp with bamboo sticks and transport army rations and supplies. The government took no action against those responsible.

Prison and Detention Center Conditions.—Prison and labor camp conditions generally were harsh and life threatening. Prison food, clothing, and medical supplies were scarce and of poor quality. Bedding often was inadequate, sometimes consisting of a single mat or wooden platform on the floor. In many cases family members of prisoners, who generally were allowed one or two visits per month, supplemented prisoners' official rations of medicine and basic necessities. According to the Thailand-based Assistance Association for Political Prisoners (Burma), authorities sent more than 200 political prisoners to remote prisons located hundreds of miles from their families.

The Department of Prisons operated a reported 42 prisons and more than 100 labor camps. According to the Asian and Pacific Conference of Correctional Administrators, in 2008 there were approximately 65,000 male and 9,100 female prisoners. Pretrial detainees were held together with convicted prisoners. Former prisoners complained of being held in aging physical structures, which received no maintenance and were infested with rodents, bacteria, and mold.

The government denied prisoners adequate medical care, although medical services in prisons partially reflected the poor health care services available to the general population. Collective reports from three dozen prisons indicated hepatitis B and amoebas were the most prevalent medical problems. Prisoners also suffered from various diseases, including malaria, heart disease, high blood pressure, and stomach problems—the result of unhygienic conditions and spoiled food. HIV/AIDS infection rates in prisons reportedly were high due to communal use of syringes for medical injections and sexual abuse by infected prisoners. One former political prisoner claimed the annual budget for medical supplies in the prison where he was incarcerated was 50,000 kyat (approximately \$50). There were no medical doctors or trained health-care professionals on staff at several prisons. Prison officials took common criminals to the local hospital for treatment but were required to seek authorization from higher authorities before allowing political prisoners to seek medical assistance outside the prison. Political prisoners waited days to receive medical treatment for life-threatening conditions and several months for treatment of chronic and urgent problems. According to a political prisoner released during the year, approximately three prisoners per month in one particular prison died due to the prison conditions.

On April 7, there were reports the health of political prisoner Su Su Nwe, who suffered from a congenital heart problem, was deteriorating. The regime allowed her

to be treated by a general practitioner but not a specialist. In July she reportedly was placed in solitary confinement for three days after singing an anthem composed by Min Ko Naing to mark Martyr's Day. Authorities moved her to the remote Hkamti Prison, reportedly as further punishment for her act.

On April 16, the comedian/activist Zarganar, arrested and sentenced in 2008 to 59 years for speaking to foreign media about the situation of the persons left homeless after Cyclone Nargis, reportedly lost consciousness for approximately three hours, but prison officials did not permit him to see a doctor until two days later. He also reportedly suffered from acute symptoms of jaundice and hypertension for more than a week before receiving medical care.

In May the group Burma Democratic Concern expressed serious apprehension about the health of Myo Yan Naung, to whom prison authorities allegedly denied treatment. Myo Yan Naung became paralyzed in 2007 when authorities severely tortured him during interrogation.

In January the parents of Kay Thi Aung reported that in December 2008 she suffered a second-trimester miscarriage in O Bo Prison. Arrested in September 2008, she was serving a 26-year sentence for allegedly crossing the border and maintaining contact with illegal organizations.

On December 23, political prisoner Tin Tin Htway, the former NLD member who was arrested in 2007 for her involvement in the monk-led protests, died of a brain aneurysm. She suffered from heart disease and hypertension and was denied adequate medical treatment for her condition after her arrest, although she was transferred to a hospital outside the prison compound before her death.

The government did not permit media and other independent groups to monitor prison conditions. The government continued to deny the International Committee of the Red Cross (ICRC) unfettered access to prisons. As a result the ICRC could not follow the cases of more than 4,000 detainees, including minors, foreigners, and sick and elderly prisoners. The ICRC's mandate was limited to supporting family visits to detainees and providing physical rehabilitation for landmine victims and other persons with disabilities.

d. Arbitrary Arrest or Detention.—The law does not prohibit arbitrary arrest or detention, and the government routinely employed both practices. The law allows authorities to extend sentences after prisoners have completed their original sentence, and the government regularly used this provision. The 1975 State Protection Law allows authorities to order detention without charge or trial of anyone they believe is performing or might perform any act that endangers the sovereignty and security of the state or public peace and tranquility.

Role of the Police and Security Apparatus.—The Myanmar Police Force falls administratively under the Ministry of Home Affairs. Military Security Affairs (MSA) officers and Special Branch (SB) police officers are responsible for detaining persons suspected of "political crimes" perceived to threaten the government.

Security forces maintained a tight grip on inhabitants, due in large part to the fear imposed by arbitrary detention, and also through threats to an individual's livelihood, such as ordering small businesses to close.

Police corruption and impunity were serious problems. Police typically required victims to pay substantial sums for crime investigations and routinely extorted money from the civilian population. There are no effective legal mechanisms available to investigate security force abuses. The government took no significant measures to reform the security forces.

Arrest Procedures and Treatment While in Detention.—By law warrants for searches and arrests are required; however, the MSA and police have special authority to conduct searches and make arrests at will. The law permits a court to detain persons without charge for up to two weeks, with the possibility of a second two-week extension. However, authorities frequently and arbitrarily extended detentions beyond this period, sometimes up to a year, without producing the detainees before a judge or informing persons of the charges against them. The government often held persons under the Emergency Act of 1950, which allows for indefinite detention.

Bail was commonly offered in criminal cases, but it was rarely allowed for political prisoners. The government regularly refused detainees the right to consult a lawyer and occasionally imprisoned or detained lawyers.

The government continued to use incommunicado detention and often failed to inform detainees' relatives of detentions until much later.

In January police arrested Nyi Nyi Aung of Sagaing Division and four others and detained them until April; they were accused of having attempted to establish an antigovernment organization. Police allegedly presented no legitimate evidence to support the charge.

On February 27, police in Bago Division reportedly arrested three women and three girls and accused them of running an illegal lottery ring. One of the girls was judged to be under 15 years old and transferred to the juvenile justice system; the other two, also under 15, and the three women were held without bail or access to legal counsel. They were later tried and sentenced to 12 months' imprisonment with hard labor.

On September 24, a Magwe court sentenced U Aye Myint to two years' imprisonment for threatening to injure a public servant. In August U Aye Myint, a lawyer active in land rights cases for farmers, confronted a forest manager for having filed a criminal complaint against two villagers who cut down trees on land confiscated from them. The judge claimed it was up to the defense to prove no threat was made, rather than for the prosecution to prove the case.

During the year the regime detained numerous prodemocracy and human rights activists and several top opposition leaders (see Political Prisoners and Detainees). Other activists wanted by the regime remained in hiding or self-imposed exile at year's end.

House arrest was a common form of detention, usually reserved for high-profile political prisoners.

Amnesty.—In February the government released 6,313 prisoners, including 19 political prisoners. On September 18, the government released 7,114 prisoners, including an estimated 127 political prisoners.

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

Supreme Court justices and senior officials in the Office of the Attorney General allegedly were most often responsible for passing along and enforcing the orders of the military rulers. The outcome of the August trial of Aung San Suu Kyi on grounds that she violated the terms of her house arrest was predetermined by the government. On August 11, the Rangoon District Court convicted Aung San Suu Kyi and sentenced her to three years in prison. On August 10, a day before the court rendered the verdict, Senior General Than Shwe issued an executive order commuting the sentence to 18 months' house arrest.

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

Trial Procedures.—The 2000 Judiciary Law provides for the right to a fair trial, but it also grants broad exceptions, in effect allowing the regime to violate these rights at will. In common criminal cases, the court generally respected some basic due process rights, whereas there was a fundamental lack of due process in most politically sensitive cases.

Defendants do not enjoy a presumption of innocence. Juries are not used in trials. Defendants have the right to be present at their trials. In political cases defendants were rarely given timely access to an attorney. By law the government is not obligated to provide an attorney at public expense except in death penalty cases. Defendants and their attorneys were given access to government-held evidence relevant to their cases only after charges were made and when the case was put before the court.

Common criminal cases were open to the public. Defense attorneys in criminal cases generally had 15 days to prepare for trial. However, this 15-day delay did not always apply in political cases. Even when lawyers of political activists were allowed the 15 days to prepare their clients' cases, they often were not allowed to present arguments on the day the case was tried in court. Instead, in some instances the court sentenced their clients immediately upon entering the courtroom, without ar-

guments. Attorneys could call witnesses, cross-examine them, and examine evidence. However, their primary function was not to disprove a client's guilt, which was usually a foregone conclusion, but rather to bargain with the judge to obtain the shortest possible sentence for the client.

Political trials normally were not open to family members or the public. NLD members and other prodemocracy activists generally appeared able to retain the counsel of lawyers without fear the lawyers might be imprisoned; however, lawyers were not always given the opportunity to mount a proper defense. They often were denied adequate access to their clients before trial, were not informed when trials would begin, and occasionally were not allowed to attend their clients' trials. Reliable reports indicated senior government authorities dictated verdicts in political cases, regardless of the evidence or the law.

Persons complained they were not informed of the arrests of family members in a timely manner, not told their whereabouts, and often denied the right to see them and attend court hearings. One father said police took his son for questioning and did not allow him to return home. After three weeks the father was granted limited access to see his son and was allowed to attend his son's trial until the judge revoked the defense lawyer's powers, effectively ending the trial. In another case the mother of a law student complained her son was given a 13-year sentence but was not allowed to have a defense lawyer.

The penal code allows the government to render excessive sentences against political activists. For example, article 505 of the penal code allows authorities to impose two-year prison terms on anyone who publishes material likely to cause alarm. Another provides an unspecified prison term for spreading rumors. In addition, the regime often prosecuted political prisoners under the Emergency Provision Act, Law to Safeguard the State Against the Dangers of Those Desiring to Cause Subversive Acts, Television and Video Act, Unlawful Association Act, Electronic Transactions Law, and Law Relating to the Forming of Organizations.

The government routinely extended prison sentences under the Law Safeguarding the State from the Dangers of Subversive Elements. The minister of home affairs has the right to extend unilaterally a prison sentence by two months on six separate occasions, for a total extension of up to one year. SPDC Chairman Senior General Than Shwe can unilaterally extend or shorten a period of detention, as he has with detained opposition leader Aung San Suu Kyi.

The law provides those convicted of crimes with the right of appeal, and there is a multistage appeals process; however, in most appeal hearings the verdicts were upheld.

Political Prisoners and Detainees.—Human rights observers reported at year's end there were more than 2,000 "security detainees," including political prisoners, violators of state security laws, and those accused of fostering religious disturbances. Because the government usually charged political detainees with criminal offenses, it denied holding any political prisoners. Despite government assertions, a vast majority of these prisoners were not believed to have engaged in any violence, theft, or other common crimes.

According to media reports, on January 15, authorities detained Pho Phyu, who had reported labor rights violations to the International Labor Organization (ILO) on behalf of a group of farmers. In April or May, Pho Phyu was sentenced to four years in prison for allegedly taking part in an illegal organization of lawyers. Zaw Htay, the facilitator in the farmers' case, reportedly took photographs of the land involved in the dispute and sent a video to the Democratic Voice of Burma, a non-profit media organization outside the country, which showed it on foreign television. Zaw Htay was convicted of violating the Official Secrets Act and sentenced to 10 years in prison. On January 16, another human rights lawyer was arrested for confronting an immigration official over the issuance of a registration form to a local monk.

On April 22, authorities arrested Twantay Township NLD Vice President Chit Phay and NLD member Maung Soe Wai after they led a Buddhist prayer meeting at a local pagoda to call for the release of Aung San Suu Kyi and all other political prisoners. They were each sentenced to an 18-month prison term for defaming religion.

On May 13, authorities transferred Aung San Suu Kyi and two of her aides from her house to a guest house on the Insein Prison compound, where they were charged with violating the terms of her house arrest after an uninvited foreigner entered her home. On August 11, the government convicted her of the charges and returned her to house arrest for an additional 18 months. On October 2, the Rangoon Divisional Court rejected the appeal of her conviction. At year's end the Supreme Court had agreed to hear Aung San Suu Kyi's appeal but had not scheduled oral arguments.

In August authorities detained at least 50 persons who had gathered near Insein Prison after the announcement of the verdict of Aung San Suu Kyi's trial, allegedly to preserve the peace. Riot police, security forces, and Swan Arr Shin militia detained the persons, mostly NLD members, but later released them with a warning not to return to the streets.

On October 3, SB police arrested four female activists—NLD member Naw Ohn Hla, Myint Myint San, Ma Cho, and Cho Cho Lwin—after they returned from offering alms to monks at Magwe monastery in a suburb of Rangoon. Naw Ohn Hla was the organizer of the Tuesday Prayer Group, a collection of prodemocracy activists who visited Rangoon's Shwedagon Pagoda every Tuesday to pray for the release of Aung San Suu Kyi and other political prisoners. At year's end the four were in custody while their trial continued.

On October 13, the media reported the government sentenced four political activists—Ashin Sandimar, Kyaw Zin Min, Wunna Nwe, and Zin Min Shein—for violating the explosives and unlawful association law. Another seven—Saw Maung, Aung Moe Lwin, Moe Htet Nay, Tun Lin Aung, Zaw Latt, Naing Win, and Tun Lin Oo—received five years for violating the unlawful association law.

On October 26, Ko Tin Htut from North Okkalapa Township in Rangoon Division was sentenced to 15 years' imprisonment for carrying a poster calling for the release of all political prisoners.

During the year authorities handed down sentences for previously arrested political detainees. On January 3, the regime sentenced Bo Min Yu Ko, a member of the Mandalay branch of the All Burma Federation of Student Unions who was arrested in September 2008, to 104 years in prison. In February Kyaw Ko Ko, leader of the same student union federation who was arrested in March 2008, received three years' imprisonment.

On February 13, NLD parliamentary members-elect Tin Min Htut and Nyi Pu, arrested in August 2008, were sentenced to 15 years' imprisonment. Both were co-signatories of a letter addressed to the UN Secretary-General expressing concern over the 2008 constitution.

Ye Min Oo, Ye Myat Hein, Kyi Phyu, and Si Thu Maung, convicted in November 2008 of sedition after participating in the 2007 prodemocracy protests and sentenced to terms ranging from five to six and one-half years, remained in prison. Aung Kyaw Oo, also a participant in the 2007 protests, remained in prison serving a term of four and a half years. Human rights observers believed Si Thu Maung remained in detention at year's end.

Members of the group Generation 88 Students, Min Ko Naing, Ko Ko Gyi, Kyaw Min Yu, Mya Aye, Aung Thu, Min Zeya, and Myo Aung Naing, sentenced in November 2008 to 65 years' imprisonment, remained in prison. Fellow member Tin Htoo Aung, sentenced to 33 years' imprisonment, also remained in prison, as did Nilar Thein, sentenced to 65 years. Generation 88 Students members Zeya, Kyaw Kyaw Htwe (Markee), Panneik Tun, and Zaw Zaw Min, sentenced in November 2008 to 65 years, remained in prison. Phone Cho, Arnt Bwe Kyaw, Htay Kywe, Thet Zaw, Sandar Min, and Nyan Lin, arrested and convicted in 2007, also continued to serve 65-year sentences. Zaw Htet Ko Ko remained in custody at year's end, serving a 12-year term in Taunggyi Prison in Shan State.

Zaw Thet Htwe, sentenced in June 2008 to 19 years under the Electronics Act, continued to serve his prison term, reduced to 15 years on appeal. Monk U Gambira, sentenced in November 2008 to 68 years' imprisonment, also remained in prison.

Human rights activists Myo Min, sentenced to eight years for illegally crossing the border and violating the Unlawful Associations Act, and Myint Aye, sentenced to 28 years for conspiracy to commit bombings, continued to serve their prison terms following their convictions in November 2008.

Numerous prodemocracy and human rights activists arrested in 2007 were formally sentenced to prison terms during the year.

NLD members Ko Kyi Phyu, Aung Min Naing, Ko Wunna Aung, and Ko Tin Mying, sentenced in 2007 to terms ranging from two and a half to six and a half years, remained in prison. Human rights observers believed several other NLD members arrested in 2007 remained in detention without conviction at year's end, including Ko Ye Min Zaw, Ko Soe Khine, Shwe Maung, Ko Myo Khin, Ko Tun Myint, Ko Tin Oo Maung, Thin Gan Gyun, Ko Phyo Min Kyin, Ko Tin Zaw Oo, Ko Law Lwin, Ko Taw Taw Aung, and Ko Ye.

Myanmar Development Committee leader Htin Kyaw, sentenced in 2008 to 12 years' imprisonment, and human rights activists Aung Zaw Oo and Win Maw, sentenced in 2008 to 12 years and two years, respectively, remained in prison. Human rights observers believed several of Htin Kyaw's supporters remained in detention at year's end, including Zaw Nyunt, Ko Han, and Han Ti.

Human rights observers believed prodemocracy activist Myat San, who was arrested in 2007, remained in detention at year's end. They also believed the leader of the Maggin Monastery, Sayada Aindakaat, remained in detention, as well as other monks arrested in 2007, including Sanda Wara.

The government extended the house arrest of NLD Vice-Chairman U Tin Oo for another year in February. U Tin Oo has been detained since May 2003 without trial.

The whereabouts of several persons detained in during 2007-2008, including Aung Htun, Myat Thu, and Aung Kyaw San, remained unknown; human rights observers believed they continued to be detained without charge. The whereabouts of Khun Maung and several others could not be verified.

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

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Land Acquisition Act protects the privacy and security of the home and property. There were no laws protecting correspondence or other communications of citizens. Through its intelligence network and administrative procedures, the government systematically monitored the travel of citizens and closely monitored the activities of those known to be active politically.

Forced entry without a court order is illegal.

The law requires that persons who intend to spend the night at a place other than their registered domicile must inform local Peace and Development Council authorities in advance. Any household that hosts a person not domiciled there must maintain a guest list and submit it to authorities. Ward-level officials continued unannounced nighttime checks of residences for unregistered visitors. Authorities in Rangoon Division continued sporadically to require households to have "family photographs" taken for government agents to use when conducting nighttime checks of residences. Households subjected to this requirement were required to pay for the cost of their photographs, usually at significantly higher than market rates, and permanently display in their homes the photographs of authorized residents.

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

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

Activists and politicians reported routine monitoring of their movements.

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

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

The law does not permit private ownership of land; the government can confiscate the land of individuals at any time. Weak private property rights and poor land ownership records facilitated involuntary relocations of persons by the government, especially in rural areas.

The media reported that in May authorities in Rakhine State seized 150 acres of farmland to set up an oil terminal after promising to pay compensation. At year's end the villagers had not received any compensation.

In 2008 there were reports of forced relocations, often accompanied by executions, rapes, and demands for forced labor to build infrastructure. While more frequent in rural areas, reports of forced relocation in urban areas also existed. There were numerous reports government troops looted and confiscated property and possessions from forcibly relocated persons or persons who were away from their homes. The practice was particularly widespread in Shan, Kayah, and Karen states, and in

areas of Mon State and Bago Division. The government made no attempts to punish offenders or compensate victims for their losses.

The government routinely confiscated food, cash, and other property from civilians. Military personnel routinely confiscated livestock, fuel, food supplies, money, and other items. Such abuses were widespread.

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

The government punished family members for alleged violations by individuals.

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—Ethnic insurgent groups continued to battle the government for autonomy or independence, including the Shan State Army-South; the Karenni National Progressive Party; and the Karen National Union, through its armed wing, the Karen National Liberation Army. In ethnic minority regions, military personnel reportedly killed and raped civilians, shelled villages and burned homes, destroyed food and seized possessions, confiscated land, forced villagers to work on infrastructure projects, and demanded villagers provide food and construction materials for military camps.

In June a reported 4,000 Karen fled to Thailand after attacks by a joint force of the army and the government-allied Democratic Karen Buddhist Army soldiers. In July approximately 500 Karen fled into the jungle without food, water, or medicine after similar attacks launched by the army.

From August 27-29, government soldiers attacked the Kokang ceasefire group, the Myanmar National Democratic Alliance Army. Press reports claimed tens of thousands of civilians fled to China as a result of the fighting. Government soldiers destroyed several villages in Shan territory; some media estimates suggested the army razed up to 500 homes in Kokang territory. On August 31, the government declared 26 government troops and eight Kokang militants were killed during the attack, which the government claimed was to shut down narcotics and arms factories.

Killings.—In May in Shan State, government troops reportedly summarily executed two villagers who were detained after a joint Karen National Liberation Army/Pa-O National Liberation Army attack on government forces.

On June 17, government army soldiers from Light Infantry Battalion 205 in Hpa An District on the border with Thailand reportedly raped and killed two Karen girls. The girls, ages 17 and 18, reportedly were attacked after their husbands fled into the jungle to avoid being forced to work as porters for the government army.

In July government authorities gave 500,000 kyat (approximately \$500) and food to compensate the family of a 15-year-old girl who was raped and killed by government soldiers in Kachin State. Although eyewitness accounts suggested other soldiers were involved in the incident, only one soldier was convicted of murder. No rape charges were filed.

According to reports from Wan Kart villagers who fled to Thailand, on August 3, government soldiers beheaded Nang Hsoi, whom they believed to be the wife of a Shan State Army (South) fighter.

According to an NGO report, in August, as part of a campaign to cut food, funds, intelligence, and recruits to the armed resistance by the local populace, the government army forcibly relocated hundreds of villagers after razing houses in three townships in Shan State. During the forced relocation, authorities reportedly beat and killed villagers; others sought safety by hiding in the jungle.

On September 8, the media reported the rape and murder of a 14-year-old girl by a group of policemen in Shan State. Police then allegedly arrested, detained, and tortured seven innocent persons, including some of those who found her body. Police also threatened the victims' relatives to prevent the perpetrators from being tried.

According to the most recent data available, 47 persons died and an estimated 400 were injured by landmines in 2007.

In 2008 there were unverified reports of deaths and injuries caused by security forces using civilians to clear landmines, particularly in Karen State, where the army continued attacks against ethnic villages.

Disappearance.—There were reports of disappearances during government army attacks in Shan and Karen states. Observers believed many persons were killed and others fled to the border.

Physical Abuse, Punishment, and Torture.—The Thailand-based Karen Women's Organization documented more than 4,000 cases of abuse over the past few years. The abuses included rape, killings, torture, and forced labor in more than 190 villages by government troops from more than 40 government army battalions.

On August 5, the media reported the rape of a 15-year-old girl in Shan State by a government army patrol as she and her sister were on their way to look for livestock.

According to media reports, a government army soldier in Shan State attempted to rape a 16-year-old girl. The soldier reportedly paid the girl's parents 600 yuan (approximately \$86) after the incident as an apology, and he gave local military authorities 1,000 to 1,600 yuan in bribes (\$143 to 229) to evade legal action. (Note: Chinese yuan is a commonly used currency near the border with China.)

NGOs and international organizations continued to report numerous sexual assaults by soldiers throughout the rest of the country.

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

Child Soldiers.—The government army continued to recruit and use child soldiers. The minimum age of enlistment in the army is 18 years, and the government's official policy is to avoid conscripting child soldiers; however, it did not deny their existence. Informal recruiting targeted vulnerable children. Some reports indicated the army recruited children as young as 11. Credible sources indicated the number of child soldiers may have risen to 12,000, although accurate statistics were difficult to obtain.

In September the media reported the military forcibly enlisted children as young as 14 into the army in Mon and Rakhine states and Bago and Irrawaddy divisions. According to media reports, the South East Command paid brokers 200,000 kyat (approximately \$200) for each child soldier they conscripted. Other children were kidnapped.

Authorities charged some recruiting staff and other military personnel for unlawful recruiting child soldiers. During the year a captain was dismissed from the army and sentenced to one year with hard labor in a civilian prison. This was the first case of military personnel being punished in a civilian prison for unlawful child-soldier recruiting. This offense may also result in one to three months in military prison with hard labor, loss of 12 months' seniority for pension and promotion rights, salary deductions, and reprimand.

Ethnic militias, among both ceasefire and non-ceasefire groups, denied the existence of child soldiers in their ranks, although their existence was widely reported.

According to Human Rights Watch, government forces and various armed insurgent groups continued widespread and systematic forced recruitment of child soldiers. In his 2009 report on the use of child soldiers in Burma, the UN Secretary-General cited evidence both the government army and several armed insurgent and ceasefire groups recruited child soldiers. The ILO reported there were 78 complaints of cases of child-soldier recruitment. The government cooperated with the ILO to return 46 child soldiers—34 from 2009 cases and 10 from 2008 cases. The government agreed to discharge two others because they were children when recruited. There were no reports of harassment of persons who complained about child-soldier cases.

Other Conflict-Related Abuses.—In Shan and Karen states, military forces displaced civilians from their traditional villages—which often were burned to the ground—and moved them into settlements tightly controlled by government troops in strategic areas. In other cases villagers driven from their homes fled into the forest, frequently in heavily mined areas, without adequate food, security, or basic medical care.

Forced relocations generated large refugee flows to neighboring countries or to parts of the country not controlled by the government. Ethnic groups reported continued military action, which sent thousands of refugees and migrant workers into neighboring countries.

According to the Office of the UN High Commissioner for Refugees (UNHCR), 184,413 Burmese refugees lived in camps in Thailand. The regime did not allow the UNHCR to monitor fully the potential areas of return to assess conditions for the voluntary return of the refugees and internally displaced persons, leading the UNHCR to determine conditions remained unsuitable for their return.

Approximately 21,000 Rohingyas lived as legally registered refugees in camps in southeastern Bangladesh, and some NGOs estimated as many as 500,000 others, who were not registered by either Burmese or Bangladeshi authorities, lived outside the camps and in the border area. Neither Bangladesh nor Burma claimed the stateless Rohingya refugees.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The government severely and systematically restricted freedom of speech and press. Authorities arrested, detained, convicted, and imprisoned citizens for expressing political opinions critical of the government and for distributing or possessing publications in which opposition opinions were expressed. Security services also monitored and harassed persons believed to hold antigovernment opinions.

On December 31, a Pakkoku district court added 20 years to the seven-year prison sentence of Hla Hla Win for violating the Electronic Transactions Act. According to the media, Hla Hla Win was a freelance journalist working for the Democratic Voice of Burma. Her associate, Myint Naing, was given 18 additional years for two unspecified charges. The two initially were arrested in September and subsequently sentenced in October to seven years each by a Pakkoku township court for riding a motorcycle that had not been properly registered. They reportedly had visited a monastery to interview monks shortly before being arrested.

On July 30-31, authorities detained 16 NLD members in Rangoon and approximately 20 NLD members in the cities of Magwe and Mandalay in anticipation of the announcement of the then scheduled verdict in the Aung San Suu Kyi trial. Some of those detained were members of the Tuesday Prayer Group. Although some were released, the whereabouts of the majority were unknown at year's end.

On August 31, police reportedly arrested Zaw Naing for staging a silent protest of the detention of more than 2,000 political prisoners by hanging a portrait of Aung San Suu Kyi around his neck. Zaw Naing received seven days in prison.

The government continued to use force or intimidation to prohibit all public speech or planned events critical of the regime by all persons. The government pursued this policy consistently with few exceptions.

According to media reports, on December 10, local authorities banned a scheduled ceremony commemorating Human Rights Day in Pyay.

On September 1, SB police arrested six politically active Arakanese university students. Authorities alleged the students were conspiring to plan activities commemorating the 70th anniversary of the death of a prominent Arakanese monk who advocated for independence from British rule. The media reported the authorities arrested up to 20 Arakanese youth. At year's end their whereabouts were unknown.

The law prohibits the publication or distribution of any printed material without obtaining prior approval from the government. The government controlled content in all print publications and owned and controlled all domestic radio and television broadcasting facilities. The official print and broadcast media were propaganda organs of the government and did not report opposing views except to criticize them. The Ministry of Information's Press Scrutiny and Registration Division censors all private publications, including books. The censorship process for books can take several months or several years.

In late May/early June, the press was prohibited from publishing information about the investigation into the collapse of the Danoke pagoda in Dala, in which several persons died. Also in June government censors banned the publication of news regarding the pending arrival of a foreign ship suspected of transporting weapons. Censors also banned articles on demonstrations following the disputed elections in Iran.

In August the government ordered the indefinite closure of the weekly newspaper Phoenix for repeatedly submitting articles late to the Press Scrutiny Board.

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

Reporters were subject to arrest, harassment, intimidation, and violence by the authorities and supporters of the regime.

On May 5, government authorities detained two foreign journalism trainers in Mandalay. On the following day the two were taken to Rangoon and deported.

On June 18, a Bahan court sentenced freelance journalist Zaw Tun to two years in prison, allegedly for obstructing the work of an official. Zaw Tun was arrested near the home of Aung San Suu Kyi by a police officer, who claimed Zaw Tun had shown "hostility" toward the officer.

On June 23, military intelligence agents went to several Rangoon media offices and demanded the names of journalists who had participated in training sessions at a foreign embassy in Rangoon, although no action was taken against the journalists.

On October 28, government agents arrested 12 persons, including staff members from The Voice, Foreign News, Pyi Myanmar, and Kandarawaddy journals. It appeared the government was targeting persons involved with a relief program for Cyclone Nargis victims.

In September Thet Zin, editor of Myanmar Nation magazine, was released after having been sentenced in November 2008 to seven years' imprisonment for violating the Printers and Publishers Act. Sein Win Maung, the magazine's office manager, sentenced to seven years at the same time, remained in prison.

Many prominent writers and journalists remained in prison for expressing their political views. According to Reporters Without Borders, at the beginning of 2008, eight journalists were in prison, including Myat Swe (Sunny Swe) and his father Thein Swe, co-owners of the English- and Burmese-language weekly newspaper Myanmar Times. Ko Aung Gyi, former editor of 90 Minutes, was released in September.

The media practiced self censorship due to fear of government reprisal. Publications generally did not report domestic political news, sensitive economic and political topics, or local tragedies if they might give a poor impression of governance.

Imported publications remained subject to predistribution censorship by state censorship boards, and possession or distribution of publications not approved by the censorship boards was a serious offense. The government also restricted the importation of foreign news periodicals.

A few foreign news agencies were present but had no expatriates based in the country. Foreign news agency bureau chiefs were rarely permitted to enter on journalist visas.

Due to widespread poverty, limited literacy, and poor infrastructure, radio and television remained the primary media of mass communication. News periodicals rarely circulated outside of urban areas. The government continued to monopolize and control the content of the two domestic radio stations. Foreign radio broadcasts, such as those of Radio Free Asia, the Voice of America, the BBC, and the Democratic Voice of Burma, remained the principal sources of uncensored information.

The government continued to monopolize and control all domestic television broadcasting tightly. It offered four public channels—three controlled by the Ministry of Information and one controlled by the armed forces. The general population was allowed to register satellite television receivers for a fee, although it remained far too expensive for the majority of the population.

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

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

Internet access and usage was extremely limited, due to government restrictions and lack of infrastructure. According to the International Telecommunication Union, in 2008 the number of Internet subscribers was less 0.04 percent of the population and 0.2 percent of inhabitants used the Internet, mostly in cybercafes in cities.

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

The government banned most Web sites critical of the regime and its activities. Authorities also blocked access to free e-mail services and blogs as well as to other Internet messaging services.

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

While the government rarely charged persons explicitly for expressing political, religious, or dissenting views in electronic forums, including e-mail, it often charged persons suspected of such activities with other crimes.

Nay Phone Latt (Nay Myo Kyaw), Internet blogger and owner of three Internet cafes who in November 2008 was sentenced to 20 years and six months, remained in prison at year's end.

Academic Freedom and Cultural Events.—The government restricted academic freedom. University teachers and professors, most of them state employees, were subject to the same restrictions on freedom of speech, political activities, and publications as other state employees. Teachers could not discuss politics at work, join or support political parties, or engage in political activity, and they had to obtain advance approval for meetings with foreigners. The government closely monitored curricula and censored course content. Like all other state employees, professors and teachers were required to join the USDA. Foreigners were not permitted to visit uni-

versity campuses without prior approval or attend any meetings involving students, including graduation ceremonies.

To limit the possibility of student unrest, some years ago the government placed undergraduate campuses in remote areas, warned teachers and students disturbances would be dealt with severely, and kept most on-campus dormitories closed. Many students opted to use self-study or private tutoring.

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

The government monitored most cultural events.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The law limits freedom of assembly, and the government severely restricted it in practice. An ordinance officially prohibits unauthorized outdoor assemblies of more than five persons, although it was not enforced consistently, and authorities sometimes prohibited smaller gatherings. While the NLD is a legal political party, all of its offices, except its Rangoon headquarters, remained closed by government order, and the NLD could not lawfully conduct party activities outside its headquarters building. The government required the nine other legally registered political parties to request permission from the government to hold meetings of their members.

The regime and its supporters routinely used intimidation, violence, and the power of arrest to disrupt peaceful demonstrations and meetings.

At least 50 persons reportedly were arrested outside Insein Prison after the verdict from Aung San Suu Kyi's trial was announced in August, but they were released soon thereafter and told not to go back onto the streets.

Freedom of Association.—The Association Law provides for citizens to form associations and organizations; however, the government restricted freedom of association, particularly for NLD members, prodemocracy supporters, and those who contacted exile groups or individuals thought to be associated with groups in exile. A statute prohibits associating with any organization the head of state declares to be unlawful.

Freedom of association generally existed only for government-approved organizations, including trade associations, professional bodies, and the USDA. Few secular, nonprofit organizations existed, and those that did took special care to act in accordance with government policy. There were 10 legally registered political parties, but most were moribund. Authorities harassed and intimidated parties not supportive of regime policies.

c. Freedom of Religion.—The government restricted freedom of religion.

There is no official state religion, but the government showed preference for Theravada Buddhism, the majority religion. However, the government continued its efforts to control the Buddhist clergy (Sangha) for political reasons. The government did not hesitate to arrest and imprison lower-level Buddhist monks who opposed the government. Authorities did not allow imprisoned monks to shave their heads or receive food in accordance with the monastic code. Like other political prisoners, monks often were beaten and forced to do hard labor. The government also subjected the Sangha to special restrictions on freedom of expression and association.

In the weeks leading up to the September anniversary of the 2007 protests and crackdown, security forces monitored many of the largest monasteries in the cities of Rangoon and Mandalay and the state of Rakhine suspected of involvement in prodemocracy activities.

In August nine monks arrested in July 2008 at Rangoon's Central Railway Station were sentenced to two years' imprisonment for "the deliberate and malicious...outraging of religious feelings." Authorities arrested the nine monks for no apparent reason. The monks had arrived separately at the station and were returning to their hometowns for a visit.

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

Most adherents of registered religious groups generally were free to worship as they chose; however, the government imposed restrictions on certain religious activities and promoted Buddhism over other religions. The Ministry of Religious Affairs has a separate department for the "promotion and propagation of Sasana" (Buddhism). The government promoted education at Buddhist monastic schools in rural areas and subsidized Buddhist universities in Rangoon and Mandalay.

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

The government prohibited efforts by Buddhist clergy to promote human rights and political freedom. Members of the Sangha were not allowed to preach sermons pertaining to politics. Religious lectures could not contain any words, phrases, or stories reflecting political views. The regime told Sangha members to distance themselves from politics, political parties, and members of political parties. The government prohibited any organization of the Sangha other than the nine state-recognized monastic orders under the authority of the State Clergy Coordination Committee. The government prohibited all religious clergy from membership in a political party.

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

The government discouraged proselytizing by all clergy. Evangelizing religions, including some Christian denominations, were most affected by these restrictions. The government generally did not allow permanent foreign religious missions to operate in the country.

There was no information on the whereabouts of monks U Damathara and U Nandara from the Thardu monastery in Rangoon, who were arrested in August 2008.

Societal Abuses and Discrimination.—There were no reports of conflicts between Muslims and Buddhists in the country. While official religious discrimination was limited, de facto preferences for Buddhists remained. There was one synagogue in Rangoon serving a small Jewish congregation. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—There are no laws explicitly protecting freedom of movement within the country, foreign travel, emigration, and repatriation. However, there are regional and local level orders, directives, and instructions restricting freedom of movement. The government did not fully cooperate with the UNHCR and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Although the government restricted freedom of movement, most citizens were able to travel within the country. However, authorities closely monitored the movements of some opposition party members.

Ethnic minority areas previously affected by conflict continued to experience tight controls on personal movement, including frequent military checkpoints and monitoring by military intelligence.

The government restricted the ability of internally displaced persons, refugees, and stateless persons to move. In particular, the government tightly controlled the movement of Muslim Rohingyas, particularly in Buthidaung, Kyauktaw, Maungdaw, and Rathedaung townships along the border with Bangladesh. Muslim youth from Rakhine State accepted for admission to universities and medical schools outside the state were unable to enroll due to travel restrictions imposed on them. The government also required other noncitizens, primarily ethnic South Asians and Chinese, to obtain prior permission to travel internally. Nonetheless, the country’s borders with China, Thailand, Bangladesh, and India remained very porous, with significant undocumented migration and commercial travel occurring.

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

Although there is no law explicitly restricting the foreign travel of citizens, the government carefully scrutinized prospective travel abroad of all passport holders. Rigorous control of passport and exit visa issuance perpetuated rampant corruption, as applicants were sometimes forced to pay bribes of up to 400,000 kyat (approximately \$400), roughly equivalent to the average annual salary of a skilled worker.

The government regularly declined to issue passports to former political prisoners, activists, and some local staff of foreign embassies. College graduates who obtained a passport (except for certain government employees) were required to reimburse the government for the cost of their education. It frequently took several months to receive a passport, particularly if the applicant was unwilling to offer a bribe as incentive for speedier service.

The government permitted foreign diplomats and foreign UN employees based in Rangoon to travel outside of Rangoon to designated tourist sites without prior permission; all other travel required advance permission and was commonly denied.

There are no provisions for forced exile or restrictions on emigration. In general citizens who emigrated legally were allowed to return to visit relatives, and some who lived abroad illegally and acquired foreign citizenship also were able to return. The government often revoked passports for political reasons.

Internally Displaced Persons (IDPs).—The main causes of displacement were army offensives against ethnic opposition groups, forced relocation and labor, and recruitment of child soldiers. According to the UNHCR, there were at least 500,000 IDPs in the country, although accurate figures were difficult to determine due to poor access to affected areas. The government provided little or no protection or assistance to IDPs, many of whom were forcibly resettled under dangerous conditions. Authorities denied humanitarian organizations access to many IDPs in eastern regions along the Thai border on security grounds. IDPs in these areas regularly suffered hardships as a result of ongoing fighting between government army and insurgent groups, according to credible observers along the border. In addition female IDPs frequently suffered rape, according to these observers.

According to NGOs, in late July government troops operating in Shan State burned 10 villages and forcibly relocated an additional 30, affecting 2,000 to 2,500 individuals. Shan groups also accused the army of other grave human rights abuses, including arbitrary arrest, torture, gang rape, and arbitrary execution. According to reports, an estimated 4,000 to 10,000 ethnic Karens were displaced by the latest wave of violence in June and July.

Protection of Refugees.—The country is not a party to the 1951 Convention relating to the Status of Refugees or its 1967 protocol. The law does not provide for the granting of asylum or refugee status, and the government did not grant such status. The government has not established a system for providing protection to refugees. In practice the government did not provide protection against expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The UNHCR continued to negotiate for permission to work with “communities that are affected by displacement.” Despite the 2007 expiration of the memorandum of understanding (MOU) between the government and the UNHCR, the government continued to allow the UNHCR to provide humanitarian assistance to Rohingyas in northern Rakhine State, whom the government does not recognize as citizens.

A two-year MOU signed in 2007 permitted the UNHCR to work with implementing partners in the southeast region, including parts of Karen and Mon States and Tanintharyi Division. Under the MOU, authorities permitted UNHCR foreign personnel to monitor their project activities in the region.

UN High Commissioner for Refugees Antonio Guterres visited the country March 7-12.

Stateless Persons.—Citizenship is granted to anyone whose parents are both nationals of the country as prescribed by law. In practice the government did not implement laws and policies to provide stateless persons the opportunity to gain nationality on a nondiscriminatory basis.

There are 135 officially recognized “national races” who qualify for citizenship. Some members of native-born but so-called nonindigenous ethnic populations, such as Chinese, Indians, Bengalis, some Eurasians, and the country’s Rohingya population, are not included in the list and are denied the full benefits of citizenship based on their nonindigenous ancestry. Of these, the majority-Muslim Rohingya fare the worst, with nearly all Rohingya denied any benefits of citizenship.

According to the UNHCR, there were approximately 730,000 legally stateless persons, mostly Rohingya, residing in northern Rakhine State near the border with Bangladesh. The government does not recognise the existence of the Rohingya ethnicity and claims the Muslim residents of northern Rakhine State are the descendants of illegal immigrants from Bangladesh who moved into the country during British colonial rule. The government consistently denied citizenship to most Rohingyas on the grounds their ancestors did not reside in the country for one year prior to the start of British colonial rule in 1824, as required by the highly restrictive citi-

zenship law. Only Rohingyas who were able to prove long familial links to the country were eligible to apply for naturalization.

Rohingyas experienced severe legal, economic, and social discrimination. The government required them to receive prior approval for travel outside their village tract of residence. Local residents reported the farther from home the applicant intended to travel, the more difficult it was to obtain permission, with travel outside of Rakhine State severely restricted. In contrast, citizens do not need approval to travel within the country; they need only be in possession of a citizenship card. Rohingyas had extremely limited access to higher education and could not work as civil servants, including as doctors, nurses, or teachers. Access to medical care was extremely limited. Rohingyas did not have access to state-operated schools beyond primary education. In 2008 Rohingyas without temporary identification cards did not have the right to vote in the constitutional referendum. Authorities required Rohingyas to obtain official permission for marriages.

The government continued a program supported by the UNHCR to issue Temporary Registration Certificate's (TCRs) to stateless persons in Rakhine State. The UNHCR reported the government issued 35,000 TCRs in 2007 and nearly 50,000 in 2008. The cards, which are necessary for many basic tasks, such as seeking a marriage license and travel authorization, did not confer citizenship but, by confirming lawful residence, contributed to improving legal status.

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

The regime continued its systematic use of coercion and intimidation to deny citizens the right to change their government. The regime continued to prevent the parliament elected in 1990 from convening.

The 2008 constitution—not yet in force—provides for popularly elected legislators to a bicameral parliament; however, it stipulates at least 25 percent of the seats must be reserved for military members appointed by the uniformed commander in chief of Defense Services. It also bars many persons from office who had not resided in the country for at least 10 consecutive years prior to election, had prior misconduct the regime deemed disqualifying, accepted assistance from a foreign government, or were entitled to citizenship of a foreign nation. Additionally, by the constitution's own terms, the SPDC will continue to “exercise state sovereignty” until the parliament is convened within 90 days of the general election. At year's end a date for the 2010 elections had not been set, nor had electoral legislation been issued.

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

Elections and Political Participation.—In May 2008 the regime announced 98.12 percent of eligible voters had participated in a referendum to approve its new constitution and the constitution had been approved by 92.48 percent of voters, figures no independent observers believed were valid. The regime did not permit comprehensive election monitoring. It allowed diplomats to visit only handpicked polling places under supervision of the Ministry of Foreign Affairs. Despite these restrictive conditions, foreign diplomatic observers witnessed irregularities, including voters being photographed by authorities and officials following voters into ballot booths. Domestic and international human rights groups reported numerous, more serious election irregularities, including voter intimidation and ballot stuffing.

The constitution specifies the SPDC will continue to “exercise state sovereignty” and “carry out...all the functions of the parliament” until the new parliament is convened. At year's end the SPDC and military remained in control of all organs of government.

The government severely restricted the operations of political parties, and persons who opposed the government were subjected to imprisonment, violence, and harassment. The government restricted political opponents' right to organize and publicize their views.

Military operations against civilians in contested areas in the ethnic states increased; many observers believed the government engaged in such actions to reduce potential opposition to the 2010 elections. Ethnic ceasefire groups—many of which have agreements with the government—were threatened with military action unless they agreed to come under control of the military through its Border Guard Force and agreed to participate in the elections.

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

Section 4. Official Corruption and Government Transparency

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

On October 15, the media reported the dismissal of two senior judges, Win Myint Oo and Thawtar Min, and one legal advisor, Bo Min Phyu, in Shan State after government officials accused them of accepting 100 million kyat (approximately \$100,000) in bribes.

Public officials were not subject to financial disclosure laws. The government did not provide access to most official documents, and there is no law allowing for it. Most government data, even routine economic statistics, were classified or tightly controlled. Government policymaking was not transparent, with decision making confined to the top layers of government, and new government policies rarely were published or explained openly.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The government did not allow domestic human rights organizations to function independently, and it remained hostile to outside scrutiny of its human rights record.

Approximately 45 nonpolitical, international humanitarian NGOs operated in the country. A few others had a provisional presence while undertaking the protracted negotiations necessary to establish permanent operations in the country.

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

Authorities often allowed NGO staff to travel "unaccompanied" to areas affected by Cyclone Nargis in 2008, although SB police monitored many visits. Some international NGOs and UN agencies were required to have a government representative accompany them on field visits to other areas of the country, at the NGO or UN expense, although this rule was not consistently enforced. Foreign staff often experienced difficulty obtaining permission to travel to project sites outside of the cyclone-affected areas.

Many international humanitarian NGOs and UN agencies reported government pressure to limit their activities, and access to human rights activists, prisoners, and ethnic minorities by international personnel was highly restricted. UN agencies and NGOs continued to negotiate with the government to agree on mutually acceptable guidelines for the activities of humanitarian organizations.

There were several high-level visits by UN officials during the year. UN Secretary-General Ban Ki-moon visited in July. During his visit he met with Senior General Than Shwe, Prime Minister Thein Sein, several opposition and ethnic leaders, and the UN country team; however, Than Shwe denied Secretary-General Ban's request to meet with Aung San Suu Kyi, who was on trial at the time. Secretary-General Ban said he conveyed a strong message on the need for political and economic reform to the generals. He delivered a speech in Rangoon highlighting the need for good governance. UN Special Envoy Ibrahim Gambari visited the country in late January and again in July accompanying Secretary-General Ban Ki-moon.

In February UN Special Rapporteur on Human Rights for Burma Tomas Ojea Quintana also visited the country. The report issued by his office highlighted concerns about the situation of political prisoners and the lack of freedom of expression, assembly, and association as they relate to the 2010 elections. It also covered a wide range of other issues including internal conflicts, discrimination, and human rights.

Ojea Quintana concluded the human rights situation remained serious and recommended the government implement four core human rights elements before the 2010 elections: a review of national legislation in accordance with the 2008 constitution and international obligations, the progressive release of prisoners of conscience, the reform of the armed forces to ensure respect for international human rights and humanitarian law, and the establishment of an independent and impartial judiciary. According to the report, government officials were generally receptive to his recommendations, but by year's end the special rapporteur had not seen a progress report from the government. The special rapporteur was scheduled to return in December, but no agreement could be reached with the government regarding a date for his visit.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

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

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

The regime did not release statistics concerning the number of rape prosecutions and convictions. The police generally opened and investigated reported cases of rape. However, in ethnic areas, when government soldiers committed rape, the army rarely took action to punish those responsible.

Domestic violence against women, including spousal abuse, remained a problem. Spousal abuse or domestic violence was difficult to measure because the government did not maintain statistics. There are no laws specifically against domestic violence or spousal abuse, although there are laws related to committing bodily harm against another person. The related prison terms range from one year to life, in addition to possible fines.

Police generally were reluctant to act in domestic violence cases; however, in cases where women sustained injuries and filed a report, police generally took action. Typically punishment for men in these cases was a fine but no jail time. The government-affiliated MWAFF—usually chaired by the wife of the prime minister—sometimes lobbied local authorities, including the police, to investigate domestic violence cases involving spousal abuse. Since the MWAFF is controlled by wives of regime leaders, police usually investigated cases referred to them by the group.

Prostitution is prohibited by law and punishable by up to five years in prison. In practice most prostitutes received three years' imprisonment, while brothel owners received five years in prison. Clients were not punished; they received HIV/AIDS counseling. Prostitution grew in urban areas, particularly in some of Rangoon's "border towns," "new towns" (populated chiefly by poor families who were relocated forcibly from older areas of the capital), and in downtown massage parlors that doubled as brothels. Police tolerated the existence of these brothels and prostitution in exchange for bribes and in-kind payments.

The penal code prohibits sexual harassment and imposes fines or up to one year's imprisonment. There was no information on the prevalence of the problem because these crimes were largely unreported.

Couples and individuals had the right to decide the number, spacing, and timing of children, and they did so free from discrimination. Access to information on contraception was limited, and reproductive health services, including the availability of contraceptives, generally were limited to private clinics. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections, including HIV.

By law women enjoy the same legal rights as men, including property and inheritance rights; however, it was not clear if the government enforced the law. Women remained underrepresented in most traditionally male occupations (e.g., mining, forestry, carpentry, masonry, and fishing) and were effectively barred from certain professions, including the military officer corps. Poverty affected women disproportionately.

There were no independent women's rights organizations, although there were several groups with some relationship to the government. The MWAFF was the leading "nongovernmental" women's organization. The Myanmar Maternal and Child Welfare Association, another government-controlled agency, provided assistance to mothers and children. The Myanmar Women Entrepreneurs' Association, a professional society for businesswomen, provided loans to women starting new businesses. While not controlled by the government, the association enjoyed good relations with

the government and was allowed to conduct its activities to support women in business.

Children.—According to the Burma Citizenship Law, citizenship is derived through parents, both of whom must be nationals of the country.

Education is compulsory, free, and universal through the fourth standard (approximately age 10). However, the government continued to allocate minimal resources to public education. Rates of school attendance were low, largely due to economic hardship.

There are laws prohibiting child abuse, but they were neither adequate nor enforced. The government claimed child abuse was not a significant problem. However, accurate statistics were not available, and some international NGOs believed the problem was more widespread than the government acknowledged.

Children reportedly engaged in prostitution for survival without third-party involvement. The penalty for child prostitution is 10 years' imprisonment. The law prohibits pornography; the penalty is three to five years' imprisonment. The law prohibits statutory rape; it is punishable by two years to life in prison. In Rangoon and Mandalay, observers noted widespread presence of female prostitutes who appeared to be in their teens. Additionally, some brothels reportedly offered young teenage "virgins" to their customers for a substantial additional fee. Although there is no law explicitly banning child sex tourism, article 13 of the 1949 Suppression of Prostitution Act and the Prostitution Act prohibit pimping and prostitution, respectively, and the penal code prohibits having sex with a minor.

The government did not dedicate significant resources to protecting the rights and welfare of children. Children were at high risk, as deteriorating economic conditions forced destitute parents to take them out of school to work in factories and teashops or to beg. Many were placed in orphanages. With few or no skills, increasing numbers of children worked in the informal economy or in the street, where they were exposed to drugs and petty crime, risk of arrest, trafficking for sex and labor exploitation, and HIV/AIDS.

Trafficking in Persons.—The law prohibits enslaving and trafficking persons, but trafficking within and from the country was a significant problem. Government and military use of forced labor remained widespread. Shan and other ethnic minority women and girls were trafficked across the border to nearby provinces in China. Karen and Mon women and girls were trafficked into nearby provinces in Thailand. Both adults and minors were trafficked for the purpose of forced labor in some places. Victims of both genders were trafficked to East and Southeast Asia and the Middle East for sexual exploitation, domestic servitude, and bonded labor. Young women and girls were at the highest risk for trafficking for the purpose of sexual exploitation. Victims of trafficking faced hazardous conditions, including sexual and physical abuse by their traffickers, poor nutrition and sanitary conditions, and disease, including tuberculosis and HIV/AIDS.

Some human traffickers appeared to be freelance, small-scale operators using village contacts to send victims to brokers overseas. Brokers were primarily foreign, but some Burmese brokers operated in Thailand and China.

A report issued in August by a local NGO, which documented 40 incidents of sexual abuse and trafficking against 71 women and children, found traffickers often promised women good jobs and higher living standards in other cities or countries. Ultimately, the women were forced to become sex workers, sold to factories in neighboring countries, or forced to marry or bear children. The incidents primarily occurred in the south, along the border with Thailand.

There was evidence internal trafficking generally occurred from poor agricultural and urban centers to areas where prostitution flourished (trucking routes, mining areas, military bases, and industrial areas), as well as along the borders with Thailand and China.

Military and civilian officials remained directly involved in forced labor and the unlawful conscription of child soldiers, with reported cases of child soldiers increasing annually. The military forcibly recruited thousands of children and adults to serve as civilian laborers and uniformed soldiers. The risk of forced military recruitment was widespread and not limited to specific states or divisions. Some children were threatened with jail if they did not agree to join the army. Poor villagers in rural regions were often required to provide corvee labor on demand as a tax imposed by authorities. ILO staff engaged the military through meetings and training to raise awareness of the need to end the practice of child recruitment. The ILO reported growing awareness of the topic at all ranks within the military.

The penalties for trafficking women and minors is 10 years to life; for trafficking men, five to 10 years; for fraud for the purpose of trafficking, three to seven years; for using trafficked victims for pornography, five to 10 years; for trafficking with an

organized criminal group, 10 years to life; for serious crime involving trafficking, 10 years to life or the death penalty; for a public official accepting money related to an investigation of the trafficking law, three to seven years. All penalties also include the option of a fine.

The government made a degree of progress against trafficking in persons. Officials recognized the importance of preventing cross-border trafficking and prosecuting traffickers. In the past they sometimes conflated human smuggling and human trafficking, according to experts in the region. Police contacts displayed increasing sophistication in their understanding of the differences between trafficking victims and illegal migrants. The government did little to combat internal trafficking and took minimal action on forced labor.

The Ministry of Home Affairs continued to maintain there was no complicity of government officials in trafficking; however, corruption among local government officials was believed to be widespread. NGOs reported the complicity of government officials in trafficking, although it appeared to be mainly a question of local and regional officials turning a blind eye to trafficking activities rather than active involvement by members of the central government. Authorities took unprecedented action against members of the military involved in child recruitment. An army captain was sentenced to one year of hard labor in a civilian prison for his role in child recruitment. Two enlisted soldiers were sentenced to shorter terms in a military prison, and two noncommissioned officers received stronger administrative punishments than were reported in the past.

The government had four vocational training centers and one house to shelter female trafficking victims; male victims were temporarily sheltered in training schools. The government requires repatriated victims to stay in these centers for a minimum of two weeks, and in practice often longer, where they were confined contrary to international norms of victim protection. The MWAFF and the Department of Social Welfare reported they provided some basic health and compulsory counseling services and job training for trafficking victims before turning them over to an NGO or returning them to their families. However, government funding for these programs was very limited.

The Ministry of Home Affairs placed antitrafficking task forces at 22 locations known to be trafficking points. With assistance from international NGOs, the government conducted training and advocacy workshops and also approved nationwide television and radio announcements and distribution of materials at the state/division level.

The government worked with the UN Inter-Agency Project on Human Trafficking to sponsor seminars for national, state/division, and lower-level authorities and received training from the Asia Regional Trafficking in Persons Project. International and local NGOs offered poverty alleviation and educational programs designed to counter trafficking.

The government continued to implement a National Action Plan against Trafficking in Persons. The five-year plan lays out the government's priorities for 2007-2011. A senior police official stated the government's priorities included conducting training courses, improving support services provided to victims, raising public awareness, and improving coordination with neighboring countries on cross-border trafficking in persons matters.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—There is no law providing for equal treatment before the law and for general protection against discrimination. Under the constitution, all citizens have the right to education and healthcare. The government did not actively discriminate against persons with disabilities in employment, access to healthcare, education, or the provision of other state services, but there were few official resources to assist persons with disabilities. There are no laws mandating accessibility to buildings, public transportation, or government facilities.

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

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

National/Racial/Ethnic Minorities.—Ethnic minorities constitute approximately 30 to 40 percent of the population, and the seven ethnic states make up approximately 60 percent of the national territory. Wide-ranging governmental and societal discrimination against minorities persisted. Tension between the government army and ethnic populations remained high; the army occupied some ethnic groups' territories and controlled certain cities, towns, and highways. Abuses included reported killings, beatings, torture, forced labor, forced relocations, and rapes of members of ethnic groups by government soldiers. Some armed ethnic groups also may have committed abuses, but on a much smaller scale than the government army (see section 1.g.).

Rohingya Muslims who returned to Rakhine State were discriminated against because of their ethnicity. Returnees faced severe restrictions on their ability to travel, engage in economic activity, obtain an education, and register births, deaths, and marriages (see section 2.d.).

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

The government continued to resettle groups of ethnic Burmans in various ethnic minority areas. According to media reports, during the year the government resettled approximately 300 ethnic Burmese in Maungdaw Township in Rakhine State; the government offered many individuals land, housing, and food for six months.

There were several reports of ethnic villages being displaced for economic development. In Shan State, the Pa-O Youth Organization reported plans to develop an iron ore mine could displace more than 7,000 homes. In Rakhine State the All Arakenese Student and Youth Congress claimed six villages were relocated. In each case local villagers claimed they were not adequately consulted or compensated prior to the relocation. Kachin villagers in the Hukawng Valley also reported that as many as 40,000 ethnic Burmese were relocated there to work for the Rangoon-based Yuzana Company's sugarcane plantation.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The penal code contains provisions against "sexually abnormal" behavior, and authorities applied them to charge gay men and lesbians who drew official attention. The maximum sentence is 20 years' imprisonment and a fine. Under the penal code, laws against "unnatural offenses" apply equally to both men and women. Nonetheless, such persons had a certain degree of protection through societal traditions.

There was no official or social discrimination based on sexual orientation in employment.

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

Section 7. Worker Rights

a. The Right of Association.—The law permits workers to form trade unions with the prior consent of the government; however, no free trade unions existed in the country. Domestic and internationally affiliated unions are not allowed, nor is individual membership in unions.

The government maintained its 2006 ruling criminalizing contact with the Federation of Trade Unions-Burma (FTUB), claiming it was a "terrorist group."

In the past the government forbade seafarers who found work on foreign vessels through the Seafarers Employment Control Division from having contact with the Seafarers' Union of Burma—affiliated to the government-banned FTUB—and the International Transport Workers' Federation. During the year the government sometimes refused to document seafarers who were abroad, which complicated the efforts of seafarers to find regular employment.

Several FTUB leaders and labor activists continued to serve long-term sentences, including FTUB Central Executive Committee members Myo Aung Thant, U Aung Thein, Khin Maung Win, Ma Khin Mar Soe, Ma Thein Thein Aye, U Aung Moe Tin Oo, Kyi Thein, Chaw Su Hlaing, U Tin Hla, and 10 FTUB organizers in the Bago area.

Six labor activists—Thurein Aung, Kyaw Kyaw, Wai Lin (Wai Aung), Nyi Nyi Zaw, Kyaw Win (Wanna), and Myo Min—arrested in connection with a labor rights

seminar in Rangoon in May 2007 and sentenced in September 2007 to 20 to 28 years' imprisonment for sedition, remained in prison. Labor activists Kan Mint and Nyunt Win, arrested and tried in 2008 on a number of charges including links with exiled groups and sedition, were sentenced to 11 and a half years' and 10 years' imprisonment in December 2008, respectively. The status of Khin Mauong Cho, also arrested in 2008, was unknown.

The law prohibits labor strikes. In contrast with 2008, there were no reports of informal strikes during the year.

b. The Right to Organize and Bargain Collectively.—The government generally does not allow workers to organize or bargain collectively. However, Workers' Supervision Committees (WSCs) existed at factories in some government-designated industrial zones to address grievances. When a dispute cannot be resolved at the factory level, it is referred to a township committee chaired by the township chairman. The township committee attempts to resolve the problem through negotiation or, if necessary, arbitration. During the period a dispute is before the WSC process, the workers are required to continue their work, and demonstrations are prohibited.

There are no export processing zones; however, there are special military-owned industrial parks. Labor laws are applicable in all industrial zones and across all industries, but they were not always enforced.

c. Prohibition of Forced or Compulsory Labor.—The SPDC Supplementary Order 2004 and Ministry of Home Affairs Order 1/99 prohibit forced or compulsory labor (except as a criminal punishment); however, there were reports such practices occurred. The law provides for the punishment of persons who impose forced labor on others. However, government and military use of forced or compulsory labor remained a widespread and serious problem, particularly targeting members of ethnic minority groups. Throughout the country international observers verified the government routinely forced citizens to work on roads, construction, and other maintenance projects. Citizens also were forced to work in military-owned industrial zones. The ILO reported one complaint during the year of internal trafficking for child forced labor at a horticultural plantation, where 100 boys ages 13 to 15 reportedly were forced to work and held in a barracks at night. The boy who reported the case was initially abducted in Rangoon Division and taken to the plantation.

The Chin Human Rights organization reported in Chin State the SPDC forced villagers to cut wood from the forest, repair and construct army camps, transport army rations and supplies, and dismantle fences around the camps. The government army also allegedly forced students to work for them on weekends and holidays.

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

During the year the Karen Human Rights Group also reported on the army's continued use of ethnic Karen villagers as porters in attacks against Karen villages in Bago Division and Karen and Kayah states.

Reports of forced labor for smaller projects in villages countrywide persisted. Authorities also continued to use forced labor countrywide to maintain existing civil infrastructure, including transportation and irrigation facilities. Authorities often allowed households or persons to substitute money or food for labor for infrastructure projects, but widespread rural poverty forced most households to contribute labor. Parents routinely called upon children to help fulfill their households' forced labor obligations. In May the government reportedly forced some villagers to work on a road construction project in Rangoon for six days. Each person who refused had to pay a fine of 2,000 kyat (approximately two dollars) per day.

In October 12 farmers in Magwe Division were sentenced to hard labor on charges of trespassing after returning to land confiscated by the government. The farmers allegedly refused to grow sugarcane for the army-run sugar factory. With the help of the ILO, in March the farmers reached an agreement with the government to return to the land. However, the factory later sued, and the court convicted the farmers.

There were reports in 2007 and 2008 from nearly every division and state of authorities forcing citizens to buy and plant physic nut trees on public and private property as part of the regime's campaign to produce more biodiesel fuel. Those who tried to avoid planting the trees were threatened with fines.

On February 26, the 2007 Supplementary Understanding on Forced Labor, an agreement between the government and the ILO, was extended for an additional 12

months. Under the agreement the government permits the ILO to set up a system allowing citizens to register complaints with the ILO without government retaliation; it also requires the government and the ILO to investigate jointly allegations of labor abuses referred by the ILO. However, the ILO reported rare instances of persons arrested after filing forced-labor complaints to the ILO and charged under the Official Secrets Acts.

Although the government took steps to address forced labor, it remained widespread. The government publicly supported the Supplementary Understanding—the 2007 agreement under which the government investigates forced labor complaints—and worked with the ILO to engage in awareness-raising activities, in addition to willingly participating in some joint investigations of forced-labor cases.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law sets a minimum age of 13 for the employment of children. The 1993 Child Law provides for the protection of children in the workplace by classifying children ages 14 to 17 as youths and allowing them to engage in light duties. Light duties are not defined, however, and in practice the Child Law was not enforced. Child labor was prevalent and highly visible. The use of child labor was found in the production of rubies, teak, rice, rubber, and sugarcane. In cities child workers were found mostly in the food processing, street vending, refuse collecting, and light manufacturing industries and as restaurant and teashop attendants. In rural areas children worked in family agricultural activities.

Forced labor, including child forced labor, is illegal under Order 199. Nonetheless, the government army continued to recruit and use child soldiers. Ethnic armed groups and some ceasefire groups also allegedly recruited child soldiers (see section 1.g.).

The Ministry of Social Welfare is broadly responsible for enforcing laws and regulations against forced labor, and the Ministry of Labor enforced the law in industrial zones. The UN Children's Fund continued to work with the Ministry of Labor to facilitate several interagency meetings and workshops on the protection of children.

e. Acceptable Conditions of Work.—Only government employees and employees of a few traditional industries were covered by minimum wage provisions. The Ministry of Finance and Revenue sets the minimum wage. It was not clear what methodology or process it uses. The minimum monthly wage for salaried public employees remained on par with the market monthly wage of 15,000 kyat (approximately \$15) for what was in effect an eight-hour workday. The rate for day laborers was 500 kyat (\$0.50) per day. Various subsidies and allowances supplemented this sum. Neither the minimum wage nor the higher wages earned by senior officials provided a worker and family with a decent standard of living. Low real wages in the public sector fostered widespread corruption and absenteeism. In the private sector, urban laborers performing unskilled work earned 500 to 1,000 kyat (\$0.50 to \$1.00) per day, while rural agricultural workers earned approximately half that rate. Skilled workers in the private sector tended to earn somewhat more than rural agricultural workers and urban laborers; for example, a skilled factory worker earned 30,000 kyat (\$30) per month, according to private sector employers.

A surplus of labor, a poor economy, and the lack of protection by the government continued to foster substandard conditions for workers. The law prescribes a five-day, 35-hour workweek for employees in the public sector and a six-day, 44-hour workweek for private and state enterprise employees, with overtime paid for additional work. Factory workers at state-owned enterprises must work 44 to 48 hours per week, depending on the type of factory. The law also allows for a 24-hour rest period per week, and workers are permitted 21 paid holidays per year; however, in practice such provisions benefited only a small portion of the labor force, since most workers were engaged in rural agriculture or the informal sector. The laws were generally enforced in the government sector, but there were frequent violations by private enterprises. There were reports workers at garment factories near Rangoon were forced to work long hours without receiving overtime pay and were dismissed for being absent from work for more than three days due to sickness.

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

CAMBODIA

Cambodia is a constitutional monarchy with an elected government and a population of approximately 14 million. In the most recent national elections, held in July 2008, the Cambodian People's Party (CPP), led by Prime Minister Hun Sen,

won 90 of 123 National Assembly seats. Most observers assessed that the election process improved over past elections but did not fully meet international standards. The CPP consolidated control of the three branches of government and other national institutions, with most power concentrated in the hands of the prime minister. Although civilian authorities nominally controlled the security forces, in many instances security forces acted under directives of the CPP leadership.

The government's human rights record remained poor. Security forces committed extrajudicial killings and acted with impunity. Detainees were abused, often to extract confessions, and prison conditions were harsh. Human rights monitors reported arbitrary arrests and prolonged pretrial detention, underscoring a weak judiciary and denial of the right to a fair trial. Land disputes and forced evictions were a problem. The government restricted freedom of speech and the press through defamation and disinformation lawsuits and at times interfered with freedom of assembly. Corruption was endemic. Domestic violence and child abuse occurred, education of children was inadequate, and trafficking in women and children persisted. The government offered little assistance to persons with disabilities. Antiunion activity by employers and weak enforcement of labor laws continued, and child labor in the informal sector remained a problem.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed politically motivated killings; however, security forces reportedly committed extrajudicial killings, although significantly fewer than in previous years.

The Cambodian Human Rights and Development Association (ADHOC) reported 18 arbitrary killings, seven of which allegedly were committed by police, three by soldiers, one by a military police officer, and the remaining seven by local-level government officials. Police arrested suspects in at least four cases.

On March 4, Inn Pheang, a soldier in the military's Battalion 617, reportedly shot and killed opposition Sam Rainsy Party (SRP) activist Mang Vith during a dispute in Kampong Cham's Memot District. Sources agreed that Mang Vith was drunk at the time of the incident, and the two men exchanged words briefly before Inn Pheang opened fire. The soldier reached a settlement with the victim's family out of court.

On June 18, Ou Bunthan, a soldier in the military's 14th Intervention Brigade in Pursat Province, immolated civilian Loeung Saroeun. The victim reportedly worked for Ou Bunthan as part of an illegal wildlife trade business. The military court issued a warrant for the arrest of Ou Bunthan, who remained in hiding at year's end.

On July 6, Phnom Penh military police officer Kep Bros, a bodyguard for the Phnom Penh governor, shot and killed Soy Sokhorn during a dispute. At year's end he had not been arrested.

There were several cases of suspected killings while victims were held in government or police custody. On March 23, fisherman Mao Sok died while in custody of the Takeo Provincial Fishery Department. The victim's family said the body displayed signs of torture; however, provincial authorities stated that Mao committed suicide in his cell, and they did not conduct an investigation. The victim's family filed a complaint to the provincial court, but the provincial prosecutor dismissed the complaint. The family appealed the decision to the appeals court; at year's end the court had taken no action.

On April 1, Kong La died while in custody of the Mong Russei district police in Battambang Province. The victim's family reported that the body showed signs of beating. The district police chief stated that Kong sustained the injuries after he fainted while in custody; the commune chief claimed Kong fell from a motorbike while resisting arrest. Local authorities gave money to Kong's family, who did not file an official complaint.

Nongovernmental organizations (NGOs) reported three killings of political activists during the year, but their investigations could not confirm that the deaths were politically motivated.

There were no developments in the following cases: the April 2008 death of Buern Soksina, who was shot and killed by a police officer during a motorcycle chase in Preah Vihear Province; the April 2008 death of a villager who died after sustaining severe head injuries from a beating allegedly by security forces during an eviction in Preah Vihear Province; and the October 2008 death of a bystander who was killed when a military police officer reportedly opened fire on a crowd.

There also were no developments in the following cases of killings by unidentified persons: the May 2008 deaths of former CPP activists Cheang Sorm and Norodom Ranariddh, Party Deputy Chief Sok Run; and the July 2008 deaths of journalist Khem Sambo and his son.

There were no developments in the 2007 deaths of Khmer Kampuchea Krom monk Eang Sok Thoeurn, SRP activist Chea Sovin, and SRP commune-level vice chairperson Kleb Un.

Mines dating from the Indochina conflict and Khmer Rouge period continued to cause casualties. According to the Cambodia Mine/UXO Victim Information System, from January to November, mines and unexploded ordnance caused 40 deaths, 54 amputations, and 122 other injuries.

On February 9, seven men allegedly killed Hang Heoun, whom they accused of sorcery in Sandan District, Kampong Thom Province. Provincial authorities arrested the seven men and charged them with premeditated murder. At year's end the perpetrators were in pretrial detention, and no trial date had been set.

Local NGOs reported two other mob killings in the first six months—one related to a robbery and the other to an attempted rape.

There were no developments in the two mob killings reported in 2008 or the five mob killings in 2007.

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

On April 4, Khmer Kampuchea Krom monk Tim Sakhorn returned to his home province of Takeo after being released from house arrest in Vietnam. After unsuccessfully attempting to obtain Cambodian citizenship documents, he crossed the border into Thailand on April 12. In July he was granted refugee status and accepted third-country resettlement.

There was no development in the 2007 disappearance of Land Border Protection Unit 504 soldier Im Bun Ny.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution prohibits such practices; however, beatings and other forms of physical mistreatment of police detainees and prison inmates continued, although the number of incidents decreased significantly from previous years.

There were credible reports that military and civilian police officials used physical and psychological torture and on occasion severely beat criminal detainees, particularly during interrogation. During the year NGOs reported that authorities allegedly tortured at least 118 prisoners: 100 in police custody and 18 in prisons. Kicking, punching, and pistol whipping were the most common methods of physical abuse, but techniques also included electric shocks, suffocation, caning, and whipping with wire. NGOs reported that it was not uncommon for police to torture detained suspects until they confessed to a crime. Courts used forced confessions as legal evidence during trial despite admissibility prohibitions under the law.

On January 31, five persons from the village of Tumnob Teuk reported that military police from the Bavel District in Battambang Province beat, kicked, and administered electric shocks to them to extract confessions for a robbery they claimed they did not commit.

On February 27, Chea Ly and his wife Chhoun Eng reported that soldiers beat them after the couple refused to pay a bribe at the Prey Nob District checkpoint. The soldiers belonged to the military's Battalion 1 in Preah Sihanouk Province.

On May 25, Pok Un reported that O Chrov District military police in Banteay Meanchey Province beat and kicked him while detaining him on suspicion of theft.

During the year ADHOC noted that there were 100 cases of physical assaults on civilians by local authorities, government agents, or private bodyguards, compared with 110 cases in 2008.

In December national drug control authorities required 21 drug-addicted persons to participate in a human trial of a liquid herbal substance called Bong Sen, used for several years in Vietnam for detoxification of drug-dependent persons. Officials claimed the 21 were volunteers, but informed sources confirmed that many of the addicts were given the choice of participating in the study or being incarcerated. According to the World Health Organization, there was no ethical review of the plans to administer the substance, nor was it registered as a drug under Ministry of Health guidelines. There was little or no information available about the efficacy, contraindications, or side effects of Bong Sen prior to the experiment. Eight of the 21 were HIV-positive, and two of those were on antiretroviral drugs at the time of the Bong Sen "treatment." Several of the 21 reported adverse reactions to the substance, including illness, during the trial. Following the 10-day trial, there was no patient follow-up planned or implemented by authorities. According to local NGO

statements, at least 17 of the 21 individuals resumed drug use within two days of the trial.

There was no development in the 2007 case of Kampong Speu Province military police officer Prak Vutha, who reportedly arrested and beat unconscious a man named Sok Soeun.

In response to 2008 reports that police and the Ministry of Social Affairs, Veterans, and Youth Rehabilitation (MOSAVY) guards raped, physically abused, robbed, and extorted detainees in police custody at two MOSAVY rehabilitation centers, officials released all of the detainees at the two rehabilitation centers. At year's end one center remained closed, while another was being used to house and rehabilitate homeless families. MOSAVY officials investigated conditions at the centers but did not issue conclusions or reports. The guards and the MOSAVY deputy director with oversight for the centers retained their positions.

Prison and Detention Center Conditions.—Prison conditions did not meet international standards. Conditions remained harsh and at times were life threatening. Government efforts to improve them continued to be hampered by a lack of funds and weak enforcement. Human rights organizations cited a number of serious problems, including overcrowding, medical and sanitation problems, food and water shortages, malnutrition, and poor security.

According to the Ministry of Interior (MOI) Prison Department, there were 13,324 prisoners and detainees, including 802 women and 840 juveniles. There are 25 prisons in the country, which were designed to hold between 8,000 and 11,000 prisoners and detainees. The government was building new prisons designed to accommodate 2,500 additional prisoners. There were reports at some prisons that cells of 40 by 20 feet held up to 110 prisoners. At Correctional Center 1 prison, cells of 26 by 26 feet held an average of 50 prisoners. In some prisons authorities used shackles and held prisoners in small, dark cells as a form of harsher punishment. There were reports that at least 58 prisoners died in custody in 18 prisons in 13 provinces during the year.

An investigation continued into the November 2008 death of Heng Touch, who died after sustaining injuries in prison under suspicious circumstances. In March the Phnom Penh Municipal Court summoned the victim's family, two prison officers, and a prison doctor for questioning, but at year's end no charges had been filed.

There were no developments in the following 2008 cases: the death of Bun Vannarith after being taken from a hospital into police custody; the death of prisoner Yan Sok Kea reportedly from a high fever after treatment was allegedly delayed; or the death of an elderly woman confined to a MOSAVY rehabilitation facility without access to medical care.

Government ration allowances for purchasing prisoners' food routinely were misappropriated and inadequate, exacerbating malnutrition and disease. One NGO claimed that in some cases prison authorities withheld 20 to 30 percent of food or materials brought by prisoners' families. Rights organizations confirmed that families had to bribe prison officials to visit prisoners or provide food and other necessities. NGOs also confirmed accounts that prisoners whose families bribed prison authorities received preferential treatment, including access to visitors, transfer to better cells, and the opportunity to leave cells during the day.

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

In most prisons there was no separation of adult and juvenile prisoners, of male and female prisoners, or of persons convicted of serious crimes and persons detained for minor offenses. Pretrial detainees were routinely held together with convicted prisoners. According to government statistics, an estimated 32 percent of prisoners held in municipal and provincial prisons were pretrial detainees.

The government generally continued to allow international and domestic human rights groups, including the International Committee of the Red Cross and the Office of the UN High Commissioner for Human Rights (UNHCHR), to visit prisons and provide human rights training to prison guards. Some NGOs reported that at times cooperation from local authorities was limited, making it difficult to gain access to pretrial detainees. The MOI continued to require that lawyers, human rights monitors, and other visitors obtain permission prior to visiting prisoners. The ministry withheld such permission in some politically sensitive cases. In some instances officials continued to permit NGOs to interview prisoners in private. UNHCHR representatives reported they usually were able to have a private meeting when interviewing a particular prisoner of interest.

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

criminal procedures code allows for pretrial detention of up to six months for misdemeanors and 18 months for felonies. One in every 10 detainees in pretrial detention was held longer than the legal time limit, sometimes without legal representation or trial. The MOI reported having 428 persons in pretrial detention in excess of the legal time limit permitted for the charged offense.

Additionally, some courts lost case files during pretrial detention periods, delaying court procedures. On July 22, a local newspaper reported the case of Roeun Sophea, who had been held in Banteay Meanchey provincial prison for 37 months, awaiting trial on drug smuggling charges. Roeun was in prison with her daughter, who was an infant at the time of Roeun's arrest. After the court located the misplaced file, on August 5 a judge convicted Roeun of the charges and sentenced her to time served.

ADHOC reported at least 103 cases of illegal arrest or detention during the year. ADHOC stated that victims in 43 illegal detention cases subsequently were freed following detainee complaints, interventions by human rights NGOs, or payment of bribes. ADHOC believed that the actual number of arbitrary arrests and detentions was somewhat higher, because some victims in rural areas did not file complaints due to difficulty in traveling to the NGO's offices or out of fear for their family's security. According to ADHOC, authorities took no legal or disciplinary actions against the persons responsible for the illegal detentions.

Throughout the year Phnom Penh municipal authorities arrested dozens of persons—usually the homeless, mentally ill, drug users, or commercial sex workers—during systematic street sweeps. Detainees typically lost all money and belongings in the course of a sweep; in at least one case, an HIV-positive woman lost her medication and authorities would not provide substitute medicines. Authorities called the street sweeps part of a citywide “beautification” process and placed the detainees in a MOSAVY-operated rehabilitation facility 15 miles from Phnom Penh. Detainees were told they were free to leave but would not be provided transportation if they left the rehabilitation center.

Role of the Police and Security Apparatus.—The General Commissariat of the National Police, which is under the supervision of the MOI, manages all civilian police units. The police forces are divided into those who have the authority to make arrests, those without such authority, and the judicial police. Military police are permitted to arrest civilians if the officers meet the training and experience requirements to serve as judicial police, if civilians are on military property, or when authorized by local governments.

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

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

On March 22, commune policeman Thoeun Hok opened fire on a crowd of villagers from Chi Kraeng commune in Siem Reap Province, wounding two villagers. Another unnamed police officer shot and wounded a third villager. The provincial governor had sent the officers in a mixed group of armed forces including district police, military police, and soldiers to remove the villagers from a disputed piece of farmland. Provincial authorities first detained the wounded but then took them to a hospital approximately three hours after the shooting occurred. On August 18, and on two subsequent occasions, the Ministry of Justice sent letters to provincial authorities requesting action in the case, but the orders were not enforced.

On June 22, a provincial police sergeant shot and wounded a villager in Ratanakiri Province during a protest over an economic land concession leased to a private company. The sergeant was held at provincial police headquarters for disciplinary action. Military soldiers reportedly injured another villager in a brawl and fired shots but did not aim at or injure any villagers.

There were no developments in the July 2008 case of Brigade 70 Major Meur Bora, who reportedly beat two men following a minor traffic accident, or in the September 2008 case of an alleged government bodyguard who shot and killed a woman in a bar.

Arrest Procedures and Treatment While in Detention.—The law requires police to obtain a warrant from an investigating judge prior to making an arrest, but police may arrest without a warrant anyone caught in the act of committing a crime. The

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

On April 22, the Kampot Provincial Court sentenced policeman Prip Pov in absentia to one year in prison. Phnom Penh Order Police had detained Prip for five weeks in February 2008 due to his alleged involvement in a Kep Municipality land dispute. Prip appealed the decision and remained in hiding at year's end.

At year's end no trial date had been set for the appeals by four of the six persons convicted in 2007 by the Phnom Penh Municipal Court for planning bombings at the 2006 Water Festival.

In the 2007 case of a 13-year-old Jarai ethnic minority youth sentenced to eight months and 10 days despite his being under the minimum age for imprisonment when arrested, the youth's lawyer confirmed his release on appeal in 2007.

Amnesty.—The king may grant amnesty in certain cases, which he often does during important Buddhist religious ceremonies and national holidays. The MOI reported that King Norodom Sihamoni pardoned 75 persons during year.

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary, but in practice the government generally did not respect judicial independence. The courts were subject to influence and interference by the executive branch, and there was widespread corruption among judges, prosecutors, and court officials.

The court system consists of lower courts, an appeals court, and the Supreme Court. The constitution also mandates a Constitutional Council, which is authorized to review the constitutionality of laws, and a Supreme Council of the Magistracy, which appoints, oversees, and disciplines judges and prosecutors. The composition of both councils heavily favored the CPP.

There is a separate military court system, which suffered from deficiencies similar to those of the civilian court system. While civilians may fall under military court jurisdiction in some cases, the legal distinction between the military and civil courts sometimes was ignored in practice.

On November 23, the Extraordinary Chambers in the Courts of Cambodia (ECCC) heard closing arguments in the case against Kaing Guek Eav (alias Duch), former Khmer Rouge director of the S-21 torture prison (Tuol Sleng), who was charged with crimes against humanity and grave breaches of the 1949 Geneva Convention (war crimes), premeditated murder, and torture. A verdict was expected in early 2010. The ECCC continued investigations against four other detained Khmer Rouge leaders charged with crimes against humanity, war crimes, and genocide. On September 2, the Office of the International Co-Prosecutor submitted a list of five additional names for review by the coinvestigating judges and for possible future prosecution.

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

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

On February 16, the appeals court upheld the 2005 conviction of Thach Saveth for the assassination of labor leader Ros Sovannareth. Thach's lawyer, local NGOs,

and the International Labor Organization (ILO) continued to report procedural irregularities in the case and a lack of evidence linking Thach to the crime.

A lack of resources, low salaries, and poor training contributed to a high level of corruption and inefficiency in the judicial branch, and the government did not ensure due process.

Observers reported that many cases were pending due to a shortage of judges and courtrooms. Observers also speculated that court officials might have been focusing on cases from which they could gain financial benefits.

There remained a critical shortage of trained lawyers, particularly outside Phnom Penh. Persons without means to secure counsel often in effect were denied the right to a fair trial. According to the Bar Association, approximately 30 percent of the country's 712 lawyers provided pro bono legal counsel to poor persons, which was inadequate to cover the basic legal rights of all of the country's poor.

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

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

In many criminal cases, rich or powerful defendants, including members of the security forces, usually paid money to victims and authorities to drop criminal charges against them. Authorities were known to urge victims or their families to accept financial restitution in exchange for dropping criminal charges or failing to appear as witnesses.

On August 17, the appeals court held a new hearing in the case of Born Samnang and Sok Sam Oeun, finding that the case should remain with the appeals court for reinvestigation and retrial. The two men had spent nearly five years in prison since their 2004 arrest and conviction for the killing of labor leader Chea Vichea before the Supreme Court ordered a retrial in December 2008 and released the men on bail. At year's end the two remained free on bail pending further appeals court action.

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

Civil Judicial Procedures and Remedies.—The country has a judiciary in civil matters, and citizens are entitled to bring lawsuits seeking damages for human rights violations. Generally, there are both administrative and judicial remedies. Enforcing a court order for a civil or criminal case often was a problem. Persons sporadically turned to vigilante justice.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law provides for the privacy of residence and correspondence and prohibits illegal searches; however, observers reported that police routinely conducted searches and seizures without warrants.

There continued to be reports of authorities entering private properties without proper judicial authorization. Due to the forced collectivization during Khmer Rouge rule and the return of hundreds of thousands of refugees, land ownership often was unclear. The 2001 land law states that any person who peacefully possessed private or state private property (not state public land) without contention for five years prior to the 2001 promulgation of the law has the right to apply for a definitive title to that property. Most of the country's impoverished population continued to lack adequate formal documentation of land ownership.

Provincial and district land offices continued to follow pre-2001 land registration procedures, which did not include accurate land surveys and opportunities for public comment. The Cadastral Commission failed to implement the identification and demarcation of state land, leading to land conflicts, arbitrary evictions, and ill-defined, uncontrolled state development. Land speculation, often in the form of land concessions, continued to fuel disputes in every province and increased tensions between poor rural communities and speculators. Urban communities faced forced eviction to make way for commercial development projects, although some cleared properties had not been developed at year's end.

The Cadastral Commission continued to perform its functions slowly. The courts remained responsible for resolving disputes in cases where land was registered or disputants were given land titles. The National Authority for Land Dispute Resolution was ineffective, and confusion existed over its jurisdiction, which overlapped with that of the national and provincial cadastral commissions. Despite calls from

various government officials to increase social land concessions for landless citizens, implementation was limited.

On September 4, the government canceled World Bank support for its Land Management and Administration Program, citing “complicated conditions” for adjudicating land titles. The World Bank had assessed the program in August and found that the government had not complied with requirements for a resettlement policy framework. The government continued the program on its own.

Cases of inhabitants being forced to relocate continued to occur when officials or businesspersons colluded with local authorities, although the numbers reported dropped significantly from 2008. Some persons also used the court system to intimidate the poor and vulnerable into exchanging their land for compensation below market value. ADHOC reported receiving 186 land-related cases during the year. During the same period, another NGO received 115 land-related cases in Phnom Penh and 14 provinces, affecting a total of 8,806 families. The poor often had no legal documents to support their land claims and lacked faith in the judicial system. Some of those expelled successfully contested these actions in court, but the majority of the cases in the courts were still being processed.

On January 24, police, military police, municipal authorities, and employees of the construction firm 7NG forcibly evicted residents of the Dey Krahorm community in the Tonle Bassac area of Phnom Penh. At the time of the unannounced eviction, residents had been negotiating compensation packages with the Phnom Penh municipal government and 7NG. Police fired tear gas and rubber bullets into a group of protesters attempting to resist the eviction, injuring at least 16 individuals, while 7NG employees dismantled residents’ houses. Bulldozers belonging to 7NG demolished some houses with occupants still inside and seriously injured two individuals. Municipal authorities and 7NG employees moved the evictees to the community’s designated resettlement site in Damnak Trayoeng, approximately 10 miles west of the city, which lacked sufficient apartments for the resettled community and basic facilities such as water and sewage. In the immediate aftermath, the evictees lived under tarps along the road next to Damnak Trayoeng and depended on NGOs for basic humanitarian support. At year’s end all families recognized by the municipal government and 7NG as landowners in Dey Krahorm received apartments in Damnak Trayoeng. Municipal authorities and 7NG moved former Dey Krahorm renters to empty plots of land without basic infrastructure in neighboring Kandal Province. Despite government claims that the Dey Krahorm site had to be cleared quickly to make way for development, the site remained an empty field at year’s end.

In June Phnom Penh municipal authorities moved more than 40 HIV/AIDS-affected families from Phnom Penh’s Borei Keila neighborhood to a resettlement site located approximately 15 miles from the city, despite the fact that some of the families were eligible for on-site resettlement in Borei Keila under a social land concession plan. Families at the resettlement site, Tuol Sambo, lived in green metal sheds that became hot during the day and made storage of antiretroviral medication difficult. Like many resettlement sites, Tuol Sambo was not equipped with sufficient infrastructure to support a community, and the remote location restricted families’ access to livelihood opportunities and medical care. As of year’s end, NGOs and the UN Joint Program on HIV/AIDS planned to upgrade the housing at Tuol Sambo and provide limited livelihood support.

In April a Ratanakiri provincial court prosecutor dismissed both criminal complaints related to a land dispute between Keat Kolney and Jarai ethnic minority villagers from Kong Yu and Kong Thom villages. The villagers had filed a criminal complaint against Keat Kolney, accusing her of tricking them into thumbprinting transfer documents for 1,112 acres of land in Pate Commune, O’Yadau District, Ratanakiri Province, in 2004. Keat Kolney’s lawyers filed a countersuit in 2007. At year’s end the community’s civil case against Keat Kolney remained pending. Villagers reported that the commune chief threatened to file unspecified charges against them if they did not drop the civil case. In December villagers filed complaints with the Ministry of Interior against the commune chief for allegedly forcing them to thumbprint the documents transferring their land to Keat Kolney. The villagers’ attorneys filed complaints seeking the removal of the case’s investigating judge, Thor Saron, for failing to act on the case. The Ratanakiri Provincial Court had assigned Judge Thor to the case in September 2008. Reports that Keat Kolney’s company was clearing land in the disputed territory continued, despite an agreement to halt development during court proceedings.

Also in April, in the case of villagers evicted from Anlong Khmeng Leng Village in Kampot Province, the prime minister announced the distribution of the confiscated land to approximately 90 families. A local NGO reported that none of the receiving families was from Anlong Khmeng Leng Village.

On April 28, authorities arrested and then released on bail Chea Sam Ath, who allegedly posed as a local village chief and ordered soldiers to shoot villagers protesting eviction in Malai District in Banteay Meanchey Province in March 2008. The investigation continued at year's end.

There were no developments in the February 2008 case of authorities who reportedly beat villagers during an eviction from the Russei Keo District of Phnom Penh.

There were no developments in the June 2008 eviction carried out by soldiers in the Anlong Kroum area of Kampot Province.

In the April 2008 eviction case of the Tonle Bassac neighborhood Group 78 (G78), on April 20, the Phnom Penh Municipal Government issued its sixth eviction notice to G78 residents. The community then filed an injunction request against the eviction notice. While authorities claimed the land was state property, the government did not provide documents classifying it as such, and the land did not meet the 2001 land law definition for state public land. On July 17, municipal police removed 86 families that did not accept the municipal government's compensation package.

On February 13, the Supreme Court upheld the decisions of the Siem Reap Provincial Court and appeals court regarding SRP parliamentarian Son Chhay's 2006 complaint. Son was ordered to sell 7.8 acres of his land to a government agency for an amount reportedly below the market price. Son requested a retrial, as he was absent during the Supreme Court hearing, but no new trial occurred. On December 18, the Siem Reap Provincial Court issued an order instructing Son Chhay to vacate the land within 15 days of the receipt of the order.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of speech and of the press; however, these rights were not always respected in practice.

The constitution requires that free speech not adversely affect public security. The constitution also declares that the king is "inviolable," and a MOI directive conforming to the defamation law reiterates these limits and prohibits publishers and editors from disseminating stories that insult or defame government leaders and institutions.

The 1995 press law prohibits prepublication censorship or imprisonment for expressing opinions. However, the government continued to use the older UN Transitional Authority in Cambodia (UNTAC) law to prosecute journalists and others on defamation and disinformation charges. A 2006 amendment to the UNTAC law eliminates imprisonment for defamation but not for incitement or spreading disinformation, which carry prison sentences of up to three years. In both types of cases, judges can order fines, which may lead to jail time if not paid.

On April 27, opposition parliamentarian Mu Sochua filed a lawsuit against Prime Minister Hun Sen for character defamation. The prime minister filed a countersuit against Mu and her lawyer, stating that comments Mu made in a press conference and her subsequent efforts to attract international support defamed him. On June 10, the court dismissed Mu's suit. On June 22, during a closed-door session, the CPP-dominated National Assembly voted to lift Mu's parliamentary immunity, which allowed the prime minister's countersuit against Mu to move forward. Simultaneously, the Bar Association of the Kingdom of Cambodia pursued an ethics complaint against Mu's lawyer, which was filed by the prime minister's lawyer for the same reasons as the defamation lawsuit. Under pressure of the ethics complaint, Mu's lawyer admitted wrongdoing, apologized to the prime minister, resigned as Mu's lawyer, and joined the CPP. The court used the lawyer's admission as evidence against Mu in her July 24 trial, and on August 4, the court found Mu liable for defaming the prime minister but dismissed the complaint against her lawyer in the same verdict, while the bar association suspended its investigation of the ethics complaint without reaching a decision. Mu appealed both the dismissal of her original complaint and her conviction. On October 14, the appeals court upheld the municipal court decision to dismiss her suit against the prime minister; Mu did not pursue the case further. On October 28, the appeals court also denied her appeal of her August 4 liability for defamation. Mu thereafter appealed the decision to the Supreme Court; at year's end no trial date had been set.

Government authorities filed several similar lawsuits against critics. On May 11, Deputy Prime Minister Sok An filed a disinformation lawsuit against the publisher of pro-opposition newspaper Khmer Machas Srok (Khmer Owners of the Land), Hang Chakra, for a series of articles that alleged corruption among the deputy prime minister's advisers and staff. On June 26, the Phnom Penh Municipal Court convicted Hang Chakra in absentia, sentencing him to one year in prison and a large fine. Hang was apprehended the same day in Battambang Province and imprisoned. On August 11, the appeals court upheld the lower court verdict. Hang did not appeal to the Supreme Court, and the verdict went into effect. In September

Hang sent a letter of apology to the deputy prime minister requesting release due to medical complications experienced as a result of incarceration, but he had received no response by year's end.

Over a four-day period in June, Phnom Penh municipal authorities arrested, prosecuted, convicted, and fined Soung Sophorn, a resident of the Boeung Kak Lake community, on charges of defaming the government. Soung Sophorn, a member of the SRP's youth wing, had spray-painted messages on the side of his house protesting the impending eviction of communities around the lake to make way for a development project owned by CPP Senator Lao Meng Khin.

On July 7, Dam Sith, editor in chief of the pro-opposition newspaper *Moneaksekar Khmer* (Khmer Conscience), received a summons to appear for court questioning on charges of defamation, disinformation, and incitement. The charges reportedly related to the content of several articles published between February and May. Dam Sith, who served time in pretrial detention in June 2008 on similar charges, apologized in writing to the prime minister and promised to cease publication of the newspaper. The lawsuit was dismissed; the newspaper immediately ceased publication and remained closed at year's end.

In early December the Svay Rieng Provincial Court charged opposition party leader Sam Rainsy with destruction of public property and incitement of racial/national hatred in connection with an October 25 incident in which a group of villagers uprooted wooden stakes demarcating the border with Vietnam. The National Assembly voted to lift Sam's parliamentary immunity on November 16, and the court summoned Sam to appear for questioning on December 28; Sam declined to appear and departed the country in November.

In the April 2008 defamation suit filed in France by Foreign Minister Hor Namhong against Sam Rainsy, on January 27, the French court of first instance found Sam and his book publisher guilty of defamation and disinformation and ordered the defendants to pay a symbolic one euro (\$1.43) to the foreign minister, 5,500 euros (\$7,865) to the French government in legal fees, and the cost of publishing the verdict in two French newspapers of their choice. Sam Rainsy appealed the decision; an October 8 appeals court hearing was postponed and had not been rescheduled at year's end.

All major political parties had reasonable and regular access to the print media. All major Khmer-language newspapers received financial support from political parties and were politically aligned. There were an estimated 20 Khmer-language newspapers published regularly. In prior years at least four major newspapers supported opposition parties. However, due in part to defamation lawsuits against pro-opposition editors, only three pro-opposition newspapers were publishing at year's end. Although the three largest circulation newspapers were considered pro-CPP, most newspapers criticized the government, particularly on corruption and land grabbing. The prime minister, royalist party leaders, and opposition party leaders frequently came under attack.

The government, military forces, and ruling political party continued to dominate the broadcast media and influence the content of broadcasts. There were nine domestic television stations and approximately 50 radio stations. All television stations and most radio stations were controlled or strongly influenced by the CPP, although a few were independent or aligned with other parties. In June the MOI granted a radio broadcast license to Soy Sopheap, the publisher of the pro-CPP *Deum Ampil* (Tamarind Tree) daily newspaper, but denied similar requests by stations that were politically unaffiliated or operated by opposition parties.

Journalists, publishers, and distributors were also subject to other forms of harassment and intimidation, including one threat by gunshot, and most reporters and editors privately admitted to some self-censorship due to fear of government reprisals.

In January an unnamed military police officer allegedly fired three shots over the head of a local journalist, Lim Lyheang, for covering a story on illegally procured timber being transported to Phnom Penh. Also in January a foreign journalist was assaulted by an off-duty police officer working as a security guard outside the offices of the 7NG construction firm in Phnom Penh.

The government-controlled national television and radio stations broadcast live segments of the first trial at the Khmer Rouge Tribunal (see section 1.e.) and taped National Assembly sessions; however, in some instances National Assembly broadcasts were heavily edited. National radio and television stations broadcast some human rights, social action, public health, education, and civil society programming produced by domestic NGOs.

Internet Freedom.—There were some reports of government restrictions on access to the Internet. In March the Ministry of Post and Telecommunications banned a series of Web sites with content deemed "offensive" by the Ministry of Women's Af-

fairs (MOWA). Some sites included half-naked Khmer Rouge women, and another featured modern representations of traditional Khmer dancers dressed like those carved on the walls at Angkor Wat. The artist maintained the work was artistic, not pornographic. There were no reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail.

According to the most recent industry survey, 0.5 percent of the total population had Internet subscriptions, most of them in Phnom Penh and Siem Reap. In urban areas Internet access was widely available through Internet cafes.

Academic Freedom and Cultural Events.—In general there were no legal impediments to academic freedom. However, scholars tended to be careful when teaching politically related subjects for fear of offending politicians.

In February the Ministry of Education removed Sun Thun from his position as civics teacher at Treah High School in Kampong Thom for criticizing the prime minister in front of students. Sun Thun stated he was teaching the textbook lessons on anticorruption and democracy that are part of the approved curriculum. Some NGOs alleged the decision was politically motivated, because the deputy schoolmaster and provincial education officials belonged to the ruling CPP, while Sun was the provincial president of the Cambodian Independent Teachers' Association and a member of the opposition SRP. The ministry offered Sun a teaching position at a different school several miles away. In May Sun was elected to a provincial council seat and suspended his teaching career to serve on the council.

On March 10, Tieng Narith was released from prison after serving his full prison term of two years and six months for teaching from a self-published text containing antigovernment material.

In contrast with previous years, the government restricted some cultural events. On January 12, the Council of Ministers banned the broadcast of "Where Elephants Weep," a rock-opera retelling of a traditional Khmer story set in the post-Khmer Rouge era, which the Buddhist Supreme Council of Monks claimed insulted Buddhism. The artists agreed to modify the production, and after the cast sent a letter of apology to the Supreme Council of Monks, the Council of Ministers permitted broadcast of the production. In February Prime Minister Hun Sen suggested that in the future, all artistic works featuring Buddhism should seek permission from the Ministry of Cults and Religion before going public.

On August 2, MOSAVY banned a Norwegian organizer from staging a beauty contest for women who had lost limbs to land mines. The ministry stated that the contest "would make a mockery of Cambodian land mine victims." A local NGO, the Cambodian Disabled People's Organization, also retracted its support for the contest after receiving "advice" from MOSAVY Minister Ith Sam Heng. When the pageant organizer expressed the desire to proceed with the pageant in an overseas location, the government forbade the 20 participants to leave the country. The pageant was held in exile in Norway using photographs of the contestants; the pageant organizer visited Cambodia in December to distribute prizes to contestants.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The constitution provides for freedom of peaceful assembly, but at times the government did not respect this right in practice. The government required that a permit be obtained in advance of a march or demonstration. The government routinely did not issue permits to groups critical of the ruling party or of nations with which the government had friendly relations. Authorities cited the need for stability and public security as reasons for denying permits.

In June the Phnom Penh municipal government twice denied requests from the Cambodian Center for Human Rights (CCHR) to hold on-site public forums on human rights and development for residents of the Boeung Kak Lake community in Phnom Penh, who faced eviction to make way for a development project. The municipal government claimed that the forum could jeopardize public safety. The CCHR reported that local authorities intimidated guesthouse owners who offered to host the session, threatening the owners with closure if the meetings went forward. The CCHR did not seek to hold the forums in other public venues.

Police forcibly dispersed groups that assembled without a permit, in some instances causing minor injuries to some demonstrators.

On August 4, police attempted to disperse an impromptu protest by opposition supporters following Mu Sochua's conviction on defamation charges (see section 2.a.). At various points along the route, police clashed with marchers, resulting in minor injuries to several protesters. Two men were also arrested, although police released them a few hours later without charges.

During the year ADHOC reported 158 protests, most of which were related to land or labor disputes.

A law on peaceful demonstration was passed by the National Assembly in October, approved by the Senate on November 17, and signed into law by the king on December 5. Critics found faults in the law, such as a provision requiring five days' advance notice for most peaceful demonstrations or another provision requiring 12 hours' notice for impromptu gatherings on private property or at the peaceful protest venue in each province, and limiting such gatherings to 200 persons. It remained for implementing decrees to clarify concepts of national security and public disorder that would be used by authorities to allow or prevent demonstrations. A street march and rally in support of Human Rights Day on December 10 showed the law could effectively support public demonstrations.

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

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

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

The law requires all religious groups, including Buddhists, to submit applications to the Ministry of Cults and Religious Affairs to construct places of worship and conduct religious activities. However, there is no penalty for failing to register. A 2007 Ministry of Cults and Religious Affairs directive restating a 2003 order prohibiting public proselytizing continued to be loosely enforced.

Societal Abuses and Discrimination.—Minority religions experienced little or no societal discrimination. There was no known Jewish community in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 Annual Report on International Religious Freedom at www.state.gov/j/drl/rls/irf/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. In practice the government generally did not provide protection or assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, or other persons of concern, but it generally allowed humanitarian organizations to provide such protection and assistance. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) to provide protection and assistance to Montagnard asylum seekers.

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

Protection of Refugees.—The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. Its laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. On December 17, the government issued a subdecree giving practical effect to its assumption of sole responsibility for the refugee status determination process, taking final control of what had been a jointly managed process with the UNHCR since June 2008. The UNHCR provided training and other technical assistance to facilitate the transfer of responsibility, and for most of the year it participated in interviews and made recommendations to the government on asylum cases.

A 2005 memorandum of understanding with the UNHCR and the government of Vietnam to resolve the situation of Montagnards under UNHCR protection remained in effect. Asylum seekers who reached the UNHCR Phnom Penh office were processed with government cooperation. During the year nine Montagnard and 55 other new arrivals sought asylum in the country. According to the UNHCR, 40 Montagnard and eight other refugees departed for a third country, while authorities deported 116 rejected Montagnard asylum seekers to Vietnam, and five Montagnards voluntarily returned to their country of origin. Two of the three protection sites closed during the year, and there were 83 Montagnards in the remaining UNHCR protection site in Phnom Penh. The Montagnard protection site was a limited access site; Montagnard refugees and asylum seekers there under UNHCR protection could leave only with UNHCR permission and escort. According to the UNHCR, during the year no refugees requested local integration.

The government generally provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account

of their race, religion, nationality, membership in a particular social group, or political opinion. However, on December 19, the government forcibly deported to China a group of 20 ethnic Uighur asylum seekers. One Uighur arrived legally in May; the remaining members were smuggled into the country in October and November. All requested political asylum, registering as persons of concern with the UNHCR and the government. On December 18, police entered a UNHCR safe house, detained the 20 Uighurs, and transported them to a municipal detention center. After approximately 27 hours, they were placed on a chartered jet that arrived from China and were transported back to China. At the time of the deportation, all of the Uighurs were awaiting adjudication of their asylum claims through the refugee status determination process, although neither the UNHCR nor the government had initiated the joint adjudication process at the time of the deportation. The government claimed the Uighurs were in violation of immigration laws and therefore subject to deportation. The deportation coincided with a state visit by the vice president of China and bilateral aid agreements totaling \$1.2 billion in assistance for Cambodia.

With the exceptions of the Montagnard and Uighur cases, there were no reported cases of government abuse, restriction of movement, or mistreatment of refugees or asylum seekers.

Stateless Persons.—The country had habitual residents who were de facto stateless, and the government did not effectively implement laws or policies to provide such persons the opportunity to gain nationality. Under the nationality law, citizenship may be derived by birth from a mother and father who are not ethnic Cambodians if both were born and living legally in Cambodia, or if either parent has acquired Cambodian citizenship. A 2007 study commissioned by the UNHCR estimated that several thousand potentially stateless persons lived in the country. However, the study's estimates came from anecdotal evidence from NGOs, and local UNHCR representatives did not consider the figure conclusive.

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

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

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

Elections and Political Participation.—The most recent national elections, held in July 2008 for the National Assembly, were peaceful overall, with a process that was generally considered an improvement over past elections. However, observers noted that the elections did not fully meet international standards. Although some election day irregularities persisted, they were low in number and did not appear to affect the outcome or distort the will of the electorate.

On May 15, the country held indirect elections for 374 provincial and 2,861 district council seats for the first time in its history as part of the government's decentralization and deconcentration initiative. Voting was limited to the 11,353 commune councilors elected in the 2007 commune elections. The CPP won 302 provincial seats and 2,249 district seats; the remainder were split among various royalist and opposition parties.

Parties could register, and individuals were free to declare their candidacy without restrictions. In June the Norodom Ranariddh Party officially became the Nationalist Party, following Prince Ranariddh's withdrawal from politics.

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

Traditional culture limited the role of women in government; however, women took part in the May indirect provincial and district council elections. There were 27 women in the 123-seat National Assembly and nine women in the 61-seat Senate. There was a female deputy prime minister, and 45 female ministers, secretaries of state, undersecretaries of state, and National Election Commission officials. Women also served as advisors, and there were 23 female judges in the municipal and provincial courts, appeals court, and Supreme Court. Although there were no female governors, the government appointed women as deputy governors in all but one of 23 provinces and Phnom Penh Municipality. The National Election Committee reported that women held 15 percent of commune council seats, 13 percent of district council seats, and 10 percent of provincial council seats.

There were five members of minorities—four Cham and one other ethnic minority—in the National Assembly. There also were three members of minorities in the Senate. At least eight officials in senior positions in the government were from minority groups.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. There is no dedicated anticorruption law.

Corruption was considered endemic and extended throughout all segments of society, including the executive, legislative, and judicial branches of government. Reported public experience with corruption was widespread, indicating many corrupt practices were not hidden. Meager salaries contributed to “survival corruption” among low-level public servants, while a culture of impunity enabled corruption to flourish among senior officials. In June a justice ministry official was charged with accepting bribes. In September the Ministry of Justice investigated a provincial court judge in Ratanakiri for several alleged incidents of corruption, including personal use of a vehicle seized as evidence in a case, but the investigation concluded there was no wrongdoing. Public officials are not subject to financial disclosure laws.

At year's end the Council of Ministers approved a draft anticorruption law and was preparing to send it to the National Assembly for review and passage. Donors and potential investors continued to express concern about the lack of an anticorruption law and the urgent need to pass such legislation. Civil society organizations continued to await a response to their May 2008 petition to the National Assembly calling for the passage of an anticorruption law compliant with international standards. The petition contained signatures and thumbprints of more than 1.1 million persons of voting age.

Legislation does not contain provisions offering protection to persons who expose corruption in an organization. An independent anticorruption body does not exist. The Council of Ministers' Anticorruption Unit is charged with developing anticorruption measures and presenting proposals to the government. The Ministry of National Assembly-Senate Relations and Inspections is mandated to investigate allegations of corruption. The National Audit Authority has the authority to audit ministries, institutions, and other entities.

The National Archives Law allows unlimited access to informational documents in the public archive. However, the law grants access to other unspecified government documents only after 20 years, and documents affecting national security and preservation of personal lives may be released only after 40 and 120 years, respectively. Some NGOs reported that in practice it was difficult for them to access information; the government frequently did not or could not answer requests for information.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

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

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

Domestic and international human rights organizations faced threats and harassment from local officials. These took the form of restrictions on and disruptions of gatherings sponsored by NGOs, verbal intimidation, threats of legal action, and bureaucratic obstruction. NGO public interest lawyers reported being denied access to detained clients in some human rights abuse cases, and an NGO reported that government officials warned that the NGO's representatives might be charged with disinformation and incitement if they spoke to the media about the cases.

In July the Ratanakiri Provincial Court summoned two ADHOC representatives for questioning regarding a complaint that they were inciting villagers in a dispute over a company's economic land concession. On August 4, the court agreed to a delay questioning to allow time for the defendants' attorney to review the case. ADHOC removed its two employees from Ratanakiri and reassigned them to different provinces after the investigating judge in the case, Thor Saron, publicly suggested that if the employees left the province, no charges would be brought against them. At year's end one ADHOC employee remained in Phnom Penh, and the other had returned to Ratanakiri.

Also in July the Banteay Meanchey Provincial Court charged three employees of local NGO Independent Democracy of Informal Economic Association and one SRP commune councilor with incitement and placed them in pretrial detention. The four were among a larger group of 30 individuals arrested on incitement and other charges stemming from a protest in a Poipet land dispute. At year's end all the arrested had been released on bail and were awaiting trial, although no date had been set.

The government cooperated with international governmental bodies and permitted visits by UN representatives. In June UN Special Rapporteur for Human Rights in Cambodia Surya Subedi visited the country. The prime minister and other senior government officials met with Subedi, in contrast with their shunning requests by previous representatives for meetings.

The government had three human rights bodies: two separate Committees for the Protection of Human Rights and Reception of Complaints—one under the Senate and another under the National Assembly—and a Cambodian Human Rights Committee that reported to the prime minister's cabinet. The committees did not have regular meetings or a transparent operating process. The committee submitted government reports for participation in international human rights review processes such as the Universal Periodic Review and issued responses to reports by international government bodies, but it did not conduct independent human rights investigations. Credible human rights NGOs considered the government committees to have limited efficacy.

The government hosted the hybrid ECCC, which was jointly administered with the UN to try Khmer Rouge leaders and those most responsible for the abuses of the Khmer Rouge period. There were no allegations of corruption in the court's administration during the year. Some observers believed that public comments by government leaders on matters related to the ECCC's jurisdictional mandate constituted a form of political interference; however, there was no evidence that the work of the court was inhibited in any way, and national authorities successfully fulfilled their responsibility to apprehend and hand over to the tribunal all individuals indicted by the ECCC. There were no tribunal decisions rendered against the accused during the year.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on race, gender, disability, language, or social status; however, the government did not generally protect these rights.

Women.—The law prohibits rape and assault; nevertheless, local and international NGOs reported that violence against women, including domestic violence and rape, was common. Rape is a criminal offense and punishable by a prison sentence of between five and 10 years, according to the UNTAC law. A case of spousal rape could be prosecuted as “rape,” “causing injury,” or “indecent assault” under the UNTAC law. Under the 2005 domestic violence law, spousal rape may fall within the definition of domestic violence that includes “sexual aggression.” Charges for spousal rape cases under the UNTAC law and the domestic violence law were rare. The domestic violence law criminalizes domestic violence but does not specifically set out penalties. However, the UNTAC law on battery and injury can be used to penalize domestic violence offenses, with penalties ranging from two months’ to five years’ imprisonment.

According to one NGO, there were 431 cases of rape and 497 cases of domestic violence reported as of November; courts tried 71 of these cases. A different NGO documented 127 cases of domestic violence affecting 131 victims in 14 provinces as of September. During the year the MOI's antitrafficking department investigated 355 cases of violence against women and children, resulting in the arrest of 394 perpetrators and rescue of 469 victims. Of the 355 cases, 249 were for rape and attempted rape. The MOI reported that three cases of rape resulted in the death of four victims. The number of cases likely underreported the scope of the problem, due to ineffective enforcement, inadequate crime statistics reporting, and the fact that women were afraid to make complaints against perpetrators. NGOs reported that enforcement of the domestic violence law was weak, authorities continued to avoid involvement in domestic disputes, and victims frequently were reluctant to pursue formal complaints.

A 19-year-old woman reportedly was raped in November by one police officer while another held her down. Police officials insisted that the perpetrators were sent to court for prosecution and that the court granted bail; court officials insisted that they received a file on the case, but not custody of the perpetrators, and that police released the perpetrators. The victim vanished after allegedly being paid one million riels (approximately \$250) in compensation. Prosecution stalled and the perpetrators

remained free at year's end. The MOI did not respond to requests for clarification by members of the National Assembly.

In February the Council of Ministers approved a three-year plan to prevent violence against women. There was a launch event organized by the MOWA, the main entity charged with implementing the plan. Approximately 2,000 books containing the three-year plan were published and distributed to all 24 MOWA provincial offices, all other ministries, and some NGOs.

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

The constitution prohibits prostitution; however, there is no specific legislation against working in prostitution. Trafficking in women for the purpose of prostitution was a serious problem, despite laws against procuring and kidnapping for purposes of sexual exploitation. There were reports that police sexually abused detained women suspected of prostitution and allowed newspapers to take photographs of them even though they were not charged with a crime. Despite increased crackdowns on brothel operators in Phnom Penh, prostitution and related trafficking persisted. The National Center for HIV/AIDS, Dermatology, and STDs reported there were approximately 3,000 women working as direct prostitutes and nearly 31,200 as indirect prostitutes through entertainment work. Some NGOs and club owners reported an increase in the number of women seeking employment in both direct prostitution and indirect sex services such as massage parlors and karaoke bars. Sex tourism was a problem, fueled by pervasive poverty and the perception of impunity.

The labor law has provisions against sexual harassment in the workplace but does not specify penalties.

Couples and individuals could decide the number, spacing, and timing of children, and they had the information and means to do so free from discrimination. Women had access to contraception as well as skilled attendance at delivery and in postpartum care, but access was often limited due to income and geographic barriers. Women were given equal access to diagnostic services and treatment for sexually transmitted infections, including HIV.

The constitution provides for equal rights for women, equal pay for equal work, and equal status in marriage. However, a UN report criticized the continued teaching of a "Women's Law" in the primary school curriculum that it claimed legitimized an inferior role for women in society. For the most part, women had equal property rights, the same legal status to bring divorce proceedings, and equal access to education and some jobs; however, cultural traditions continued to limit the ability of women to reach senior positions in business and other areas. Women often were concentrated in low-paying jobs and largely were excluded from management positions. Men made up the vast majority of the military, police, and civil service.

The MOWA, mandated to protect the rights of women and promote gender equality in society, continued its Neary Ratanak (Women as Precious Gems) program. The program aimed to improve the image of women through gender mainstreaming, enhanced participation of women in economic and political life, and protection of women's rights. Twenty-two percent of teachers at the 37 vocational training centers managed by the government were female, an increase from 13 percent in 2005. Sixteen government ministries instituted gender mainstreaming action plans with support from the UN Development Program and in close collaboration with the MOWA. The government's National Strategic Development Plan 2006-10 committed to ensuring that women as a share in wage employment would increase by 50 percent in agricultural and industrial sectors, and by 37 percent in the service sector.

Children.—By law citizenship may be derived by birth from a mother and father who are not ethnic Cambodians if both parents were born and living legally in Cambodia or if either parent has acquired Cambodian citizenship. The MOI administered a modernized birth registration system, but not all births were registered immediately, due principally to parents' delay. The system did not include special outreach to minority communities. In addition, children born from the mid-1970s to the mid-1990s often were not registered as a result of the Khmer Rouge/Vietnam occupation/civil war. Many of these unregistered persons who later had families of their own did not perceive a need for registration. It was common for young persons not to be registered until a need arose. The failure to register all births resulted in discrimination, including the denial of public services. A study commissioned by the UNHCR on statelessness in the country stated that the birth registration process often excluded children of ethnic minorities and stateless persons. NGOs that provided services to disenfranchised communities reported that children without birth registration and family books were often denied access to education and health care.

They stated that later in life the same individuals may be unable to access employment, own property, vote, or use the legal system.

Children were affected adversely by an inadequate educational system. Education was free, but not compulsory, through grade nine. Many children left school to help their families in subsistence agriculture, worked in other activities, began school at a late age, or did not attend school at all. The government did not deny girls equal access to education; however, families with limited resources often gave priority to boys. According to international organization reports, school enrollment dropped sharply for girls after primary school. Schools in many areas were remote, and transportation was a problem. This especially affected girls, due to safety concerns in traveling between their homes and schools.

Child abuse was believed to be common, although statistics were not available. Child rape remained a serious problem; a local NGO reported 351 cases of rape and attempted rape committed on persons under age 18. Eighteen of the cases involved children below age five, 144 involved children ages five to 10, and 189 involved children ages 10 to 18. Sexual intercourse with a person under age 15 is illegal; however, child prostitution and trafficking in children occurred. During the year raids on brothels rescued underage girls trafficked for prostitution. The MOI reported arrests of 31 foreign pedophiles during the year. Some children engaged in prostitution for survival without third-party involvement.

In May the prison director for Preah Sihanouk Province allowed convicted Russian pedophile Alexander Trofimov, who was serving an 18-year sentence for child sexual abuse, to leave prison for a day to visit various investment projects. Government officials issued a warning to the prison director for this breach in regulations but took no further action until media reports uncovered the story. MOI authorities then investigated the incident, and the prison director was demoted and moved to an administrative job in Phnom Penh. On June 22, authorities charged a senior justice ministry official for accepting large bribes in exchange for attempting to engineer the release of Trofimov on the pretense of extradition to Russia. The official reportedly counterfeited false extradition papers and forged the signatures of the justice minister and prime minister on the documents. At year's end the case was pending before the courts.

The government offered limited services to street children at a rehabilitation center, but the services were inadequate. A domestic NGO estimated that more than 1,500 street children in Phnom Penh had no relationship with their families and an estimated 10,000 to 17,000 children worked on the streets but returned to families in the evenings. An estimated 500 to 1,000 children lived with their families on the streets in Phnom Penh.

The MOI reported at least 44 children under the age of six reportedly were living with their mothers in prison. A local NGO reported 40 such children and claimed that the children were subjected to mistreatment by prison guards and faced physical dangers from adult criminal cellmates. The children generally lacked proper nutrition and education.

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

Trafficking in Persons.—The government continued efforts to implement its 2008 Law on Suppression of Human Trafficking and Sexual Exploitation, which criminalizes all forms of trafficking. However, the country remained a source, destination, and transit country for men, women, and children trafficked for sexual exploitation and labor. Children were trafficked domestically for sexual exploitation and labor. Some Vietnamese women and girls were trafficked through the country for exploitation in the commercial sex trade in other Asian countries.

Children were trafficked to Thailand and Vietnam for begging, soliciting, street vending, and flower selling. The children frequently were placed into debt bondage to beg or sell, or they formed part of organized begging rings. Women as well as children were trafficked to Malaysia and Thailand for sexual exploitation and forced labor in factories or as domestic servants, while men were trafficked for forced labor in the agriculture, fishing, and construction sectors. The country is a destination for foreign child-sex tourists, and there were increasing reports that Asian men travelled to the country to have sex with underage virgin girls.

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

Local traffickers covered specific small geographic areas and acted as middlemen for larger trafficking networks. Organized crime groups, employment agencies, and marriage brokers were believed to have some degree of involvement. Traffickers used a variety of methods to acquire victims. In many cases victims were lured by promises of legitimate employment or travel documents. In other cases acquaint-

ances, friends, and family members sold the victims or received payment for helping deceive them. Young children, the majority of them girls, were often pledged as collateral for loans by desperately poor parents; the children were responsible for repaying the loan and the accumulating interest. A 2007 report by the International Organization for Migration stated that child domestic workers, particularly those used as collateral or placed into debt bondage, were more likely to be trafficked and to enter commercial sexually exploitive activities.

The law establishes a prison sentence of 15 to 20 years for a person convicted of selling, buying, or exchanging a person under 18 years of age; the penalty is seven to 15 years in prison for trafficking persons 18 or older. According to the Cambodian National Police Antihuman Trafficking and Juvenile Protection Department, police investigated 38 cases of trafficking in persons during the year. The investigations resulted in the arrest of 63 offenders. However, NGOs continued to report the limited ability and inadequate resources of law enforcement and other government officials to act on trafficking tip-offs.

The Ministries of Interior, Women's Affairs, and Justice had primary responsibility to combat trafficking in persons. The government merged its national task force with a high-level oversight body to create a single national committee, an interministerial antitrafficking coordination body. There was a Department of Antihuman Trafficking and Juvenile Protection within the Cambodian National Police, and the MOI operated specialized antitrafficking divisions in all provinces and municipalities. While the government arrested and prosecuted traffickers and continued its support for prevention and protection programs through collaboration with foreign and domestic NGOs and international organizations, its antitrafficking efforts continued to be hampered by corruption and a weak judicial system. Certain observers of trafficking in persons in the country believed that some law enforcement, court officials, and other government officials received bribes that facilitated the sex trade and trafficking in persons.

In March the Supreme Court upheld the August 2008 appeals court decision reducing the sentence of Belgian pedophile Philippe Dessart from 18 years to three years in prison under the new antitrafficking law, although Dessart committed his child abuse crimes in 2006. According to an NGO, Dessart compensated the victim, and the victim thereafter dismissed the NGO lawyers. In April Dessart was released after completing the three-year sentence, and he subsequently moved into the home of his victim and married the victim's mother. Several NGOs petitioned the government to expel Dessart from the country, which the law allows in cases of convicted felons. On September 23, the government confirmed that it had deported Dessart the previous week.

The MOI reported two convictions on human-trafficking charges. An unconfirmed Phnom Penh Municipal Court report stated there were 10 convictions of human-trafficking offenders during the year. Police, court officials, and judges often did not separate victims from perpetrators during raids, arrests, and trials. In some cases officials mistreated victims.

In September MOSAVY approved both a policy on protecting the rights of trafficking victims and a set of national minimum standards for the care of such victims. NGOs continued to provide most of the assistance to victims. The government participated as a willing partner in a number of these efforts; however, its contributions were severely hampered by limited resources. NGOs provided intake screening services to identify trafficking victims. Some victims were encouraged by NGOs and the MOI to file complaints against perpetrators; however, victim protection was a problem, and some victims were known to be intimidated into abandoning their cases. Social stigma against women who were prostitutes, victims of sexual assault, or victims of sex trafficking made it difficult for victims to reintegrate into families, communities, and society.

The antitrafficking law contains no provisions to protect foreign victims from being charged under immigration laws, but during the year there were no reported cases of trafficking victims being treated as illegal immigrants. MOSAVY, often working with the International Organization for Migration, repatriated from Thailand, Vietnam, and Malaysia 992 child and adult victims, as well as others vulnerable to becoming victims, and reintegrated them with their families.

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

Donors supported programs to combat child labor implemented by the ILO and World Education, among others.

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

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—On May 29, the National Assembly passed the Law on the Protection and Promotion of the Rights of Persons with Disabilities. The new law prohibits discrimination, neglect, exploitation, or abandonment of persons with disabilities. It includes persons with mental illnesses in the definition of persons with disabilities and requires that buildings and government services be accessible to persons with disabilities. At year's end MOSAVY was drafting subdecrees to support the law, which the king promulgated in July.

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

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

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

Indigenous People.—The government often ignored efforts by indigenous communities to protect their ancestral lands and natural resources. Despite the 2001 land law requiring the registration of communal lands of indigenous people, little was done to implement communal land titling. NGOs called for a moratorium on land sales and land concessions affecting indigenous communities. International and local NGOs were active in educating the indigenous communities about the land registration process and providing legal representation in disputes. NGOs reported loss of agricultural space and livelihoods due to the increased granting of economic land concessions on indigenous land. The NGO Indigenous Rights Active Members reported in December that it had recorded 14 land disputes involving minority groups during the year, an increase from seven in 2008.

The Khao Chuly Group continued to clear land in Pech Chreada District, Mondulakiri Province, for a rubber plantation, doing so before the Ministry of Agriculture, Forestry, and Fisheries approved the economic land concession for the plantation. Ethnic Phnong villagers claimed to own part of the land and demanded that the company leave or pay compensation. The Khao Chuly Group's partner company, foreign rubber conglomerate Socfin, took managerial control of the plantation, and at year's end it was reportedly conducting an environmental and social impact assessment of the project. An NGO found that the project led to the loss of traditional agricultural land, water supplies, and spirit forests and restricted access to schools.

There were no developments in the April 2008 land case affecting members of the indigenous community of Kak Village in Ta Lav Commune, Andoung Meas District, Ratanakiri. NGOs stated that the government granted a 17,000-acre economic land concession covering the disputed land to the company for a rubber plantation in 2006. NGOs reported that much of the area in the concession may be eligible for registration as indigenous community land under the 2001 law. The affected community members were not aware of the concession until the land was cleared.

In the May 2008 case in Ratanakiri Province where the provincial governor reportedly granted a lease that included indigenous lands without consulting the indigenous communities, the BVB Investment Company and members of one of the affected communities, Yeak Laom Commune, reached a mutual agreement for use of the lands in August 2008. The agreement allowed the villagers to continue farming cleared land while preserving forest land in the 1,250-acre site for tourism development. Villagers in the second community, Pachon, continued to report encroachment on the part of the BVB Investment Company and Yeak Laom Commune.

There were no developments in the 2007 cases of a Ratanakiri provincial official preventing Tampoun indigenous villagers from burying their dead on land that had served as their traditional burial ground since 1979, or of the Ratanakiri Jarai indigenous families demanding the removal of local officials allegedly involved in the fraudulent sale of more than 3,000 acres of their communal land.

Societal Abuses, Discrimination, and Act of Violence Based on Sexual Orientation and Gender Identity

There were no laws criminalizing homosexual acts, nor was there official discrimination against the lesbian, gay, bisexual, and transgender (LGBT) community, although some societal discrimination and stereotyping persisted, particularly in rural areas. The LGBT community was visible and active in urban areas, particularly Phnom Penh and Siem Reap. There were a few NGOs dedicated to serving the needs of LGBT persons, primarily focused on delivery of health care. In May several local businesses and NGOs hosted the Fifth Annual Phnom Penh Pride festival, a week-long series of events that highlighted the LGBT community.

There were no reports of discrimination based on sexual orientation in employment, statelessness, or access to education or health care. However, homosexual conduct was typically treated with fear and suspicion, and there were few support groups where such cases could have been reported.

There were a few reports of private individuals refusing to employ or rent property to persons based on sexual orientation or gender identity.

Other Societal Violence or Discrimination.—There was no official discrimination against those infected with HIV/AIDS. Societal discrimination against those infected with HIV/AIDS remained a problem in rural areas; however, discrimination was moderated by HIV/AIDS awareness programs.

Section 7. Worker Rights

a. The Right of Association.—The 1997 labor law permits private-sector workers to form and join trade unions of their own choice without prior authorization. Despite some improvement, enforcement of the labor law was poor. Membership in trade unions or employee associations is not compulsory, and workers are free to withdraw from such organizations, although a few unions attempted to intimidate workers who wanted to withdraw. Unions may affiliate freely, but the law does not explicitly address their right to affiliate internationally. While the law applies to foreign workers, it does not apply to civil servants, including teachers, judges, and military personnel, or to workers in the informal sector. Personnel in the air and maritime transportation industries are not entitled to the full protections of the law but are free to form unions.

Less than 3.5 percent of the labor force, estimated to be 8.8 million persons, was unionized. Unions were concentrated in the garment and footwear industries, where approximately 70 to 80 percent of the estimated 278,400 workers were union members. The Cambodian Tourism and Service Workers Federation reported that it represented approximately 3,750 hotel, casino, and airport workers. There were more than 1,600 registered factory-level unions and 48 union federations and associations, the majority of which were aligned with the government, and five of which were independent.

The Cambodia Independent Teachers Association (CITA), registered as an “association” due to prohibitions on public sector unions, represented 9,263 of the country’s 98,690 teachers. CITA’s requests for marches and other protests were sometimes denied, although the union reported no direct government interference in day-to-day activities.

Another public sector association, the Cambodian Independent Civil Servants’ Association (CICA), represented approximately 1,129 officials from ministries, provincial departments, and commune councils, out of approximately 184,000 civil servants nationwide.

Some CITA members feared that affiliation with the teachers association could hamper their chance of career advancement. CICA leaders alleged that fears of harassment or demotion prevented other civil servants from joining.

There were no developments in the 2007 killing of local union leader Hy Vuthy. The investigation remained open at year’s end.

On February 18, the appeals court upheld the 2005 conviction of Thach Saveth for the killing of union leader Ros Sovannareth in 2004. Thach Saveth appealed to the Supreme Court (see section 1.e.).

On August 17, the appeals court ruled to reinvestigate the case of the 2004 killing of labor union leader Chea Vichea. In December 2008 the Supreme Court provisionally released the two suspects convicted of the crime (see section 1.e.).

The labor law provides for the right to strike and protects strikers from reprisal. The law stipulates that strikes can be held only after several requirements have

been met, including the failure of other methods of dispute resolution (such as negotiation, conciliation, or arbitration), a secret-ballot vote of union membership, and a seven-day advance notice to the employer and the Ministry of Labor and Vocational Training (MOLVT). There is no law prohibiting strikes by civil servants, workers in public sectors, or workers in essential services.

The MOLVT reported that 40 strikes occurred in the Phnom Penh area during the year. The Garment Manufacturers Association of Cambodia reported 57 strikes nationwide. International observers, employers, and many union leaders agreed that almost no strikes fulfilled all prestrike legal requirements. Although some unions complained of a lack of MOLVT involvement, the MOLVT resolved approximately 50 percent of the disputes.

The government allowed most strikes held at factories but denied worker requests to hold protest marches outside of the factory area. Police intervention in strikes generally was minimal and restrained, even in those cases where property damage occurred.

On January 22, two workers were injured during a strike staged by more than 3,000 workers of the Yung Wah factory in Kandal Province. The protest took place after the factory management told the workers that they would not receive the traditional 200,500 riel bonus (approximately \$50) for the Lunar New Year. A Kandal police deputy chief claimed that his officers used minimal force to subdue the protesters.

On February 9, approximately 450 workers from Van Lida factory in Phnom Penh staged a strike and appropriated equipment after learning that the foreign owner had left the country without paying salaries.

On May 20, more than 1,000 workers from the Sangwoo factory in Kampong Speu Province clashed with police during a strike over working conditions. On May 21, strikers and policemen threw stones at each other, and shots were fired. There were no serious injuries.

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

On May 1, the Cambodian Confederation of Unions together with the Cambodian Labor Confederation led a march to appeal for the creation of an independent and impartial labor court as stipulated in the 1997 labor law.

b. The Right to Organize and Bargain Collectively.—The law provides for the right to organize and bargain collectively, but the government's enforcement of these rights was inconsistent. Collective bargaining agreements existed within the garment and hotel industry and with contract workers at the two international airports.

There were 131 collective bargaining agreements registered with the MOLVT during the year. However, these were not comprehensive agreements, but rather simple agreements covering a few points on wage-related matters.

A regulation establishes procedures to allow unions to demonstrate that they represent workers for purposes of collective bargaining. The regulation also establishes requirements for employers and unions regarding collective bargaining and provides union leaders with additional protection from dismissal. The labor law requires trade unions and employers' organizations to file charters and lists of officials with the MOLVT. The Bureau of Labor Relations is responsible for facilitating the process of union registration and certification of "most representative status" (MRS) for unions, which entitles a union representing an absolute majority of workers in a given enterprise to represent all of the workers in that establishment. The government began reexamining its MRS certification process with support from international organizations and a diplomatic mission. In April 2008 authorities issued a new MRS notification detailing the procedures for applying, objecting to, and hold-

ing of elections. This resulted in a marked improvement in MRS procedures, as evidenced by the 400 percent increase in certifications.

Enforcement of the right of association and freedom from antiunion discrimination was inconsistent. Acts of union discrimination by the employer often went unpunished. Government enforcement of rights was hampered by a lack of political will and by confused financial and political relationships among employers and union leaders. The government also suffered from a lack of resources, including trained, experienced labor inspectors, in part because it did not pay officials adequate salaries. The MOLVT often decided in favor of employees but rarely used its legal authority to penalize employers who defied its orders, instead referring many cases to the Arbitration Council.

There were credible reports of antiunion harassment by employers, including the dismissal of union leaders, in garment factories and other enterprises. During the year approximately 30 union leaders were dismissed or suspended without cause. Prominent independent and opposition union leaders reported receiving veiled threats of violence. Two union leaders affiliated with the Free Trade Union of Workers in the Kingdom of Cambodia were injured by factory security guards, one was hurt by two unidentified men, and two others were threatened. Both independent and progovernment union leaders were injured by unidentified assailants. In four cases, 25 union leaders were threatened with suits or sued for defamation, perjury, inciting workers to strike, destroying private property, and attempting to incite workers to commit assault. On several occasions dismissed union leaders accepted cash settlements after unsuccessfully appealing to the government to enforce laws requiring their reinstatement. At other times the government upheld labor rights. For example, during the year the MOLVT formally warned 691 companies of legal violations. The MOLVT sent 87 cases of unresolved labor disputes to the Arbitration Council. The Arbitration Council received 178 cases from across the country (up from 159 complaints in 2008), of which approximately 65 percent were successfully resolved.

Unions continued to gain strength, but many were not able to represent member interests adequately due to insufficient resources, training, and experience. In addition, corruption plagued the ranks of unions, employers, and government officials, hampering legitimate industrial relations. Violence, harassment, and intimidation between rival unions were common. Union leaders from across the political spectrum complained that the progovernment Khmer Youth Federation of Trade Unions habitually threatened and harassed workers from other unions.

In some factories persons employed in management appeared to have established their own unions, supported promanagement unions, or compromised union leaders through efforts to jeopardize their employment.

There are no special laws or exemptions from regular labor laws in export processing zones (known as special economic zones).

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, but there were reports that such practices occurred, almost exclusively in the informal sector. There were reports of forced labor by domestic servants.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law protects children from exploitation in the workplace; however, enforcement was often weak. The law establishes 15 years as the minimum age for employment and 18 years as the minimum age for hazardous work. The law permits children between 12 and 15 to engage in “light work” that is not hazardous to their health and does not affect school attendance. The National Plan of Action on the Worst Forms of Child Labor (2008-12) aimed to reduce the number of working children ages 5-17 to 10.6 percent in 2010 and 8 percent by 2015.

Child labor was widespread in agriculture, brick making, fishing, the commercial sex industry, domestic service and on tobacco and rubber plantations. Child labor was also reported in the formal sector but to a much lesser extent. According to a 2006 study conducted by the World Bank and others, more than 750,000 economically active children were below the absolute minimum working age of 12, and an additional 500,000 children (12 to 14 years old) conducting nonlight economic activity were below the minimum age for this type of work. According to the report, more than 250,000 children ages 15 to 17 worked more than 43 hours per week or in hazardous sectors. An expert from the ILO’s International Program on the Elimination of Child Labor stated that the number of children working in hazardous work conditions rose to approximately 300,000 during the year. Three-quarters of economically active children were in the agriculture sector, 15 percent in commerce, 5 percent in small-scale manufacturing, and 2 percent in services.

According to a 2007 report, a total of 21,266 child domestic workers were found in Phnom Penh and the three provinces of Battambang, Kampong Cham, and Siem Reap. The children typically did not attend school, worked long hours with no medical benefits, and received little or no pay. In October police arrested Meas Nary, a high-school teacher, and her husband Va Saroeun, a former government official, for the severe mistreatment of their ward, an 11-year-old girl, whom they used as a domestic servant. The child told investigators she had been forced to do housework for years and was repeatedly abused by the couple, including punishments with pincers, beatings with whips and electrical wires, and burns.

No aspect of the law prohibiting child labor was adequately enforced in the formal employment sector. No employer was prosecuted for violating laws against child labor. The MOLVT has responsibility for child labor matters in both the formal and informal sectors of the economy, but its labor inspectors played no role in the informal sector or in enforcing the law in illegal industries, such as unregistered garment factories operating without a license from the MOLVT and the Ministry of Commerce. Within the formal sector, labor inspectors conducted routine inspections of some industries, such as garment manufacturing (where the incidence of child labor is negligible), but in some industries with the highest child labor risk, labor inspections were entirely complaint driven.

The constitution prohibits forced or bonded child labor; however, forced child labor was a serious problem in the commercial sex industry, particularly among those ages 15 to 18. Law enforcement agencies failed to combat child prostitution in a sustained, consistent manner. Widespread corruption, lack of transparency, inadequate resources, and staffing shortages remained the most challenging obstacles.

e. Acceptable Conditions of Work.—The law requires the MOLVT to establish a garment-sector minimum wage based on recommendations from the Labor Advisory Committee. There was no minimum wage for any other industry. Garment-sector workers were guaranteed a minimum wage equivalent to \$50 per month, plus a minimum \$6 living allowance. Prevailing monthly wages in the garment sector and many other professions were insufficient to provide a worker and family with a decent standard of living, although garment-sector wages were generally higher than wages in the informal economy. The vast majority of employers in garment factories paid the minimum wage to permanent workers, although temporary and other such workers were often paid less.

The law provides for a standard legal workweek of 48 hours, not to exceed eight hours per day. The law establishes a rate of 130 percent of daytime wages for nightshift work and 150 percent for overtime, which increases to 200 percent if overtime occurs at night, on Sunday, or on a holiday. Employees are allowed to work up to two hours of overtime each day. However, the government did not enforce these standards effectively. Workers reported that overtime was excessive and sometimes mandatory. Similarly, outside the garment industry, regulations on working hours were rarely enforced. Involuntary overtime remained a problem, although the practice decreased during the year. Employers used coercion to force employees to work. Workers often faced fines, dismissal, or loss of premium pay if they refused to work overtime.

The law states that the workplace should have health and safety standards adequate to provide for workers' well-being. The government enforced existing standards selectively, in part because it lacked trained staff and equipment. The MOLVT's Department of Labor Inspection was the primary enforcement agency, and during the year it issued 691 warnings about labor law violations to companies. The agency appeared to conduct proactive inspections, but endemic corruption hindered the efficacy of such inspections. Work-related injuries and health problems were common. Most large garment factories producing for markets in developed countries met relatively high health and safety standards as conditions of their contracts with buyers. Working conditions in some small-scale factories and cottage industries were poor and often did not meet international standards. Penalties are specified in the law, but there are no specific provisions to protect workers who complain about unsafe or unhealthy conditions. Workers have the right to remove themselves from situations that endangered health or safety without jeopardy to their employment, but those who did so possibly risked loss of employment.

On October 12, 414 garment workers at a Will Bes garment factory fainted and were sent to a hospital for treatment. Workers said strong chemicals used at the factory caused them to faint. After the incident, the factory was ordered to shut down for cleaning.

CHINA (Includes Tibet, Hong Kong, and Macau)

The People's Republic of China (PRC), with a population of approximately 1.3 billion, is an authoritarian state in which the Chinese Communist Party (CCP) constitutionally is the paramount source of power. Party members hold almost all top government, police, and military positions. Ultimate authority rests with the 25-member political bureau (Politburo) of the CCP and its nine-member standing committee. Hu Jintao holds the three most powerful positions as CCP general secretary, president, and chairman of the Central Military Commission. Civilian authorities generally maintained effective control of the security forces.

The government's human rights record remained poor and worsened in some areas. During the year the government increased the severe cultural and religious repression of ethnic minorities in the Xinjiang Uighur Autonomous Region (XUAR). Tibetan areas remained under tight government controls. The detention and harassment of human rights activists increased, and public interest lawyers and law firms that took on cases deemed sensitive by the government faced harassment, disbarment and closure. The government limited freedom of speech and controlled the Internet and Internet access. Abuses peaked around high-profile events, such as the 20th anniversary of the Tiananmen Square uprising, the 50th anniversary of the Tibetan uprising, and the 60th anniversary of the founding of the People's Republic of China.

As in previous years, citizens did not have the right to change their government. Other serious human rights abuses included extrajudicial killings, executions without due process, torture and coerced confessions of prisoners, and the use of forced labor, including prison labor. The government continued to monitor, harass, detain, arrest, and imprison journalists, writers, dissidents, activists, petitioners, and defense lawyers and their families, many of whom sought to exercise their rights under the law. A lack of due process and restrictions on lawyers, particularly human rights and public interest lawyers, had serious consequences for defendants who were imprisoned or executed following proceedings that fell short of international standards. The party and state exercised strict political control of courts and judges, conducted closed trials, and continued the use of administrative detention. Prolonged illegal detentions at unofficial holding facilities, known as black jails, were widespread.

Individuals and groups, especially those deemed politically sensitive by the government, continued to face tight restrictions on their freedom to assemble, practice religion, and travel. The government failed to protect refugees and asylum-seekers adequately, and the detention and forced repatriation of North Koreans continued. The government increased pressure on other countries to repatriate citizens back to China, including citizens who were being processed by UNHCR as political refugees. Nongovernmental organizations (NGOs), both local and international, continued to face intense scrutiny and restrictions. The government failed to address serious social conditions that affected human rights, including endemic corruption, trafficking in persons, and discrimination against women, minorities, and persons with disabilities. The government continued its coercive birth limitation policy, in some cases resulting in forced abortion or forced sterilization. Workers cannot choose an independent union to represent them in the workplace, and the law does not protect workers' right to strike.

In April the government unveiled its first National Human Rights Action Plan. The 54-page document outlined human rights goals to be achieved over the next two years and addressed issues such as prisoners' rights and the role of religion in society. However, the plan has not yet been implemented.

On July 5, riots broke out in Urumqi, the provincial capital of Xinjiang, after police used force to break up a demonstration reportedly composed mostly of Uighur university students who protested the killing of Uighur migrant workers by Han co-workers in Guangdong Province. Violence erupted leaving approximately 200 people dead and 1,700 injured. According to official sources, most of the dead were Han Chinese. On July 7 and September 4, groups of Han Chinese engaged in retaliatory violence, resulting in more deaths. At year's end Urumqi remained under a heavy police presence and most Internet and international phone communication remained cut off.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—During the year security forces reportedly committed arbitrary or unlawful killings. No official statistics on deaths in custody were available.

In January Lin Guoqiang died suddenly while in custody at the Fuqing Detention Center in Fujian Province. His family claimed that his body was swollen and covered with bruises. At year's end there was no official investigation into the case.

On February 8, Li Qiaoming was reportedly beaten to death in a detention center in Jinning County, Yunnan Province. Prison officials initially claimed he died after accidentally running into a wall during a game of "hide and seek." However, Li's father, who viewed the corpse, reported Li's head was swollen and his body covered with purple abrasions. Following Li's death, public security officials launched a campaign to eliminate "unnatural deaths" in prisons. An investigation determined three inmates were responsible for the death. The inmates, along with two prison guards, were sentenced to prison.

In March Li Wenyan died while in custody in Jiujiang, Jiangxi Province. The Xinhua official press quoted a senior prison official as stating that Li died while having a "nightmare." Official press reports also stated that an autopsy performed by the Jiangxi Provincial Public Security Department in May showed that Li died of various diseases, including an ulcer, an abscess, and heart disease, none of which were discovered until after his death. The same press report stated that an injury on the body was caused by electric shock administered during resuscitation attempts.

Also in March Radio Free Asia (RFA) reported that a Tibetan monk, Phuntsok Rabten, was beaten to death by police in Sichuan Province after urging Tibetans to boycott farming to protest a massive security clampdown.

In April the Supreme People's Procuratorate (SPP) disclosed that at least 15 prisoners died in "unnatural deaths" under unusual circumstances during the year. According to a Chinese press report, seven of the prisoners died of beatings, three were classified as suicides, two were described as accidents, and three remained under investigation.

According to official media reports, 197 persons died and 1,700 were injured during the July 5 rioting in Urumqi. A second wave of riots, on a smaller scale, occurred on July 7. On September 25, charges were brought against 21 of the more than 200 persons facing prosecution in connection with the riots. On November 9, eight Uighurs and one Han were executed without due process for crimes committed during July riots. At year's end 22 persons had been sentenced to death; five others reportedly received suspended death sentences. Of these, one was reported to be ethnically Han Chinese and the rest were Uighurs.

According to RFA reports, police detained Uighur Shohret Tursun in Urumqi during the July 5 riots. In September police returned his disfigured body to family members and ordered them to bury him; the family refused to do so without an explanation of his death from the police. On September 20, the police surrounded the family home and forced the family to bury the body without an autopsy.

During the reporting period no new information became available regarding the deaths of Falun Gong practitioner Yu Zhou, who was arrested in Beijing in January 2008 and died in February 2008; Tibetan protester Paltsal Kyab, detained in April 2008 in Sichuan Province and who died in police custody in May 2008; or a motorcyclist surnamed Ouyang, who died in July 2008 and was allegedly killed by security guards in Guangdong Province.

During the year no new information was available regarding a 2007 incident in which 18 persons were killed and 17 were arrested during a raid at a location in the XUAR that officials called a terrorist training camp.

Defendants in criminal proceedings were executed following convictions that sometimes took place under circumstances involving severe lack of due process and inadequate channels for appeal.

b. Disappearance.—On February 4, authorities detained human rights lawyer Gao Zhisheng, who had represented Chinese Christians and Falun Gong practitioners. At year's end his whereabouts remained unconfirmed, although according to NGO reports, in August he reportedly was seen in his hometown under heavy police escort. Before his arrest Gao published a letter detailing his torture during a previous period of detention.

On March 30, underground Catholic bishop Julius Jia Zhiguo of Zhengding, Hebei Province, was arrested; at year's end his whereabouts were unknown. The whereabouts of underground Catholic priests Zhang Li and Zhang Jianlin, from near Zhangjiakou city in Hebei Province, whom authorities detained in May 2008, and Wu Qijing, the bishop of Zhouzhi, Shaanxi Province, who was detained in 2007, also remained unknown.

In an October report, the NGO Human Rights Watch documented the disappearances of hundreds of Uighur men and boys following the July protests in Urumqi.

At year's end the government had not provided a comprehensive, credible accounting of all those killed, missing, or detained in connection with the violent suppres-

sion of the 1989 Tiananmen demonstrations. In October the Dui Hua Foundation estimated that approximately 20 individuals continued to serve sentences for offenses committed during the demonstration.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits the physical abuse of detainees and forbids prison guards from extracting confessions by torture, insulting prisoners' dignity, and beating or encouraging others to beat prisoners. However, during the year there were reports that officials used electric shocks, beatings, shackles, and other forms of abuse.

According to a November Human Rights Watch report, on March 6, An Weifeng was released on bail from Bancheng prison in Chengde City, Henan Province, for medical treatment. His father claimed that An Weifeng's body was swollen and scarred as a result of beatings and the administration of electric shocks.

In 2007, 30 farmers from Chengdu, Sichuan Province, who traveled to Beijing seeking resolution of a land dispute were abducted and taken to a military base, where they were tortured, threatened, and starved. One of them allegedly attempted suicide, "because (the guards) didn't allow me to sleep or eat in order to force me to write self-criticisms." According to the same report, a 15-year-old girl who traveled to Beijing to get help for her disabled father was kidnapped and taken back to Gansu Province, where she was beaten and held incommunicado for nearly two months. There were no new developments in this case during the year.

In November 2008 the UN Committee Against Torture (UNCAT) stated its deep concern about the routine and widespread use of torture and mistreatment of suspects in police custody, especially to extract confessions or information used in criminal proceedings. However, UNCAT acknowledged government efforts to address the practice of torture and related problems in the criminal justice system. Many alleged acts of torture occurred in pretrial criminal detention centers or Re-education Through Labor (RTL) centers. Sexual and physical abuse and extortion occurred in some detention centers.

According to China News Weekly, the country had 22 "ankang" institutions (high-security psychiatric hospitals for the criminally insane) directly administered by the Ministry of Public Security (MPS). Political activists, underground religious believers, persons who repeatedly petitioned the government, members of the banned Chinese Democracy Party (CDP), and Falun Gong adherents were among those housed with mentally ill patients in these institutions. The regulations for committing a person to an ankang facility were not clear, and detainees had no mechanism for objecting to public security officials' determinations of mental illness. Patients in these hospitals reportedly were given medicine against their will and forcibly subjected to electric shock treatment. Activists sentenced to administrative detention also reported they were strapped to beds or other devices for days at a time, beaten, forcibly injected or fed medications, and denied food and use of toilet facilities.

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

On March 2, an inmate at the Danzhou First Detention Center in Hainan was beaten to death by inmates while guards looked on.

Forced labor remained a serious problem in penal institutions. Many prisoners and detainees in penal and RTL facilities were required to work, often with no remuneration. Information about prisons, including associated labor camps and factories, was considered a state secret and was tightly controlled.

In August Vice Minister of Health Huang Jiefu stated that inmates were not a proper source for organ transplants, that prisoners must give written consent for their organs to be taken, and that their rights were protected. In a 2007 interview, Ministry of Health spokesman Mao Qunan stated that most transplanted organs were from executed prisoners.

Adequate, timely medical care for prisoners remained a serious problem, despite official assurances that prisoners have the right to prompt medical treatment. Prison officials often denied privileges, including the ability to purchase outside food, make telephone calls, and receive family visits to those who refused to acknowledge guilt.

Conditions in administrative detention facilities, such as RTL camps, were similar to those in prisons. Beating deaths occurred in administrative detention and RTL facilities. According to NGO reports, conditions in these facilities were similar to

those in prisons, with detainees reporting beatings, sexual assaults, lack of proper food, and no access to medical care.

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

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

d. Arbitrary Arrest or Detention.—Arbitrary arrest and detention remained serious problems. The law permits police and security authorities to detain persons without arresting or charging them. Because the government tightly controlled information, it was impossible to determine accurately the total number of persons subjected to arbitrary arrest or detention.

Role of the Police and Security Apparatus.—The security apparatus is made up of the Ministries of State Security and Public Security, the People's Armed Police, the People's Liberation Army (PLA), and the state judicial, procuratorial, and penal systems. The Ministries of State Security and Public Security and the People's Armed Police were responsible for internal security. SPP and Supreme People's Court (SPC) officials admitted that courts and prosecutors often deferred to the security ministries on policy matters and individual cases. The SPP was responsible for the investigation of corruption and duty crimes (crimes committed by public officials or state functionaries, including corruption, crimes of dereliction of duty, and crimes involving violations of a citizen's personal rights). The PLA was responsible for external security but also had some domestic security responsibilities.

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

The SPP acknowledged continuing widespread abuse in law enforcement. Domestic news media reported the convictions of public security officials who had beaten to death suspects or prisoners in their custody. On August 12, Deng Hongfei, a police officer in Nanchang, Jiangxi Province, was sentenced to 12 years in prison, and fellow officer Xia Xiangdong was sentenced to one year in prison for beating to death suspect Wang Jianguo during an interrogation in 2006.

Arrest Procedures and Treatment While in Detention.—Public security organs do not require court-approved warrants to detain suspects under their administrative detention powers. After detention the procuracy can approve formal arrest without court approval. According to the law, in routine criminal cases police can unilaterally detain persons for up to 37 days before releasing them or formally placing them under arrest. After a suspect is arrested, the law allows police and prosecutors to detain a person for up to seven months while public security organs further investigate the case. Another 45 days of detention are allowed where public security organs refer a case to the procuratorate to decide whether to file charges. If charges are filed, authorities can detain a suspect for an additional 45 days between filing and trial. In practice the police sometimes detained persons beyond the time limits stipulated by law. In some cases investigating security agents or prosecutors sought repeated extensions, resulting in pretrial detention of a year or longer. The criminal procedure law allows detainees access to lawyers before formal charges are filed, although police often limited such access.

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

Detained criminal suspects, defendants, their legal representatives, and close relatives are entitled to apply for bail; however, in practice few suspects were released on bail pending trial.

The government used incommunicado detention. The law requires notification of family members within 24 hours of detention, but individuals often were held with-

out notification for significantly longer periods, especially in politically sensitive cases. Under a sweeping exception, officials were not required to provide notification if doing so would “hinder the investigation” of a case. In some cases police treated those with no immediate family more severely.

There were numerous reports of citizens who were detained with no or severely delayed notice. On July 27, Noor-Ul-Islam Sherbaz, a Uighur minor, was detained and accused of participating in the July 5 riot. In contravention of law on the detention of juveniles, Sherbaz’s parents had no contact with him after his arrest and were not allowed to be present during police interrogations.

Authorities advised a number of activists in Shanghai and Beijing to remain at home in the days prior to and during U.S. President Obama’s November visit to China. Some activists in provinces outside these two cities were told not to travel outside their province.

Citizens who traveled to Beijing to petition the central government for redress of a grievance were frequently subjected to arbitrary detention, often by police from the petitioner’s hometown. Some provincial governments operated detention centers in Beijing or in other localities to hold such petitioners without official procedures or right to appeal. The law protects the right to petition the government for resolution of grievances.

In August a guard raped a 20-year-old petitioner at a detention facility operated at a Beijing hotel by officials from Tonbai County in Henan Province. In November the guard pled guilty to raping the woman and in December was convicted and sentenced to eight years in prison. Petitioners frequently were forcibly returned to their hometowns after stays in detention facilities lasting several days to several weeks. According to an International Herald Tribune report, Huang Lihong, a woman from Guizhou Province, was held in a Beijing detention facility for nearly a year.

The law permits nonjudicial panels, called labor reeducation panels, to sentence persons without trial to three years in RTL camps or other administrative detention programs. The labor reeducation committee is authorized to extend a sentence up to one year. Defendants could challenge RTL sentences under the administrative litigation law and appeal for a reduction in, or suspension of, their sentences. However, appeals rarely succeeded. Many other persons were detained in similar forms of administrative detention, known as “custody and education” (for women engaged in prostitution and those soliciting prostitution) and “custody and training” (for minors who committed crimes). Administrative detention was used to intimidate political activists and prevent public demonstrations.

On February 1, Zhu Lijin was arrested for distributing Falun Gong pamphlets. She was sentenced to 15 months in RTL without a trial. Authorities used special reeducation centers to prolong detention of Falun Gong practitioners who had completed terms in RTL.

Authorities arrested persons on allegations of revealing state secrets, subversion, and other crimes as a means to suppress political dissent and social advocacy. Citizens also were detained under broad and ambiguous state secrets laws for, among other actions, disclosing information on criminal trials, meetings, and government activity.

Human rights activists, journalists, unregistered religious figures, and former political prisoners and their family members were among those targeted for arbitrary detention or arrest.

The government continued to use house arrest as a nonjudicial punishment and control measure against dissidents, former political prisoners, family members of political prisoners, petitioners, underground religious figures, and others it deemed politically sensitive. Numerous dissidents, activists, and petitioners were placed under house arrest during the October 1 National Day holiday period. House arrest encompassed varying degrees of stringency but sometimes included complete isolation in one’s home or another location under lock and guard. In some cases house arrest involved constant monitoring, but persons under house arrest were occasionally permitted to leave the home to work or run errands. Sometimes such persons were required to ride in the vehicles of their police monitors when venturing outside. When outside the home, subjects of house arrest were usually, but not always, under surveillance. In some instances security officials assumed invasive positions within the family home rather than monitor from the outside.

On May 31, police at Guiyang Airport apprehended human rights activist Chen Xi as he was attempting to fly to Beijing to commemorate the Tiananmen uprising. He was detained for nine hours without explanation and then sent home, where he remained under house arrest. Chen was again detained on December 7, presumably to prevent him from attending the Guizhou Human Rights Symposium, which he helped organize. In February Shanghai activist Dai Xuezhong was prohibited from leaving his home for approximately one week by local police to prevent a planned

meeting with fellow activist Deng Yongliang. In August authorities placed writer Zhao Hun, who blogs under the name of Mo Zhixu, under house arrest for several days.

At year's end Yuan Weijing, wife of imprisoned family-planning activist lawyer Chen Guangcheng, remained under virtual house arrest. According to Reporters Without Borders, when journalism professor Wang Keqin and a student tried to visit Yuan in March in Linyi County, Shandong Province, both were physically and verbally assaulted by five or six plainclothes individuals, who Wang reportedly claimed were hired by the local government to prevent visitors to Chen's family.

Police continued the practice of placing under surveillance, harassing, and detaining citizens around politically sensitive events, including the plenary sessions of the National People's Congress (NPC) and the Chinese People's Political Consultative Conference (CPPCC), the 60th anniversary of the founding of the PRC and the 20th anniversary of the Tiananmen Square student uprising. In early June authorities in Hangzhou placed several dissidents, including Charter 08 signatories Wen Kejian and Zou Wei and CDP activist Zhu Yufu, under house arrest for several days. Published in December 2008, Charter 08 calls for free elections and greater freedom of speech. Coauthored by Liu Xiaobo, who was later imprisoned, the document, originally signed by more than 300 Chinese activists and intellectuals, received more than 7,000 signatories online. Many dissidents in Beijing reported that police prevented them from leaving their houses on June 4, the anniversary of the Tiananmen Square Massacre. Authorities in the XUAR used house arrest and other forms of arbitrary detention against those accused of subscribing to the "three evils" of religious extremism, "splittism," and terrorism. Raids, detentions, arrests, and judicial punishments indiscriminately affected not only those suspected of supporting terrorism but also those who peacefully sought to pursue political goals or worship.

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

Corruption often influenced judicial decision making, and safeguards against corruption were vague and poorly enforced. Local governments appointed judges at the corresponding level of the judicial structure. Judges received their court finances and salaries from these government bodies and could be replaced by them. Local authorities often exerted undue influence over the judges they appointed and financed. Several high-profile corruption cases involved procuracy officials.

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

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

The CCP used a form of discipline known as "shuang gui" for violations of party discipline, but there were reports of its use against nonparty members. Shuang gui is similar to house arrest, can be authorized without judicial involvement or oversight, and requires the CCP member under investigation to submit to questioning at a designated place and time. According to regulations of the Central Discipline Inspection Commission governing shuang gui, corporal punishment is banned, the member's dignity must be respected, and he or she is regarded as a comrade unless violations are proved. Absent any legal oversight, it is unclear how these regulations were enforced in practice.

On August 12, authorities in Chengdu closed the trial of Tan Zuoren, charged with defaming the CCP, from the public (see Political Prisoners section). Tan attempted to collect the names of students who died in the May 2008 Sichuan earth-

quake. Police blocked persons who tried to attend the proceedings at the courthouse. When contemporary artist and civil society activist Ai Weiwei traveled to Chengdu to participate in the trial and testify on Tan's behalf, security forces beat him and prevented him from leaving his hotel room until the trial had adjourned.

On November 6, 70-year-old Lin Dagang was sentenced to two years in prison for illegally possessing state secrets. According to an NGO report, his wife and son were not allowed to attend his two-hour trial.

On December 25, Liu Xiaobo, a well-known dissident and coauthor of Charter 08, which called for increased political freedoms and human rights in China, was found guilty of the crime of inciting subversion of state power and sentenced to 11 years in prison and two years' deprivation of political rights, in a trial that was believed to contain serious due process violations. At year's end Liu's case was on appeal.

Trial Procedures.—Trials took place before a judge, who often was accompanied by "people's assessors," laypersons hired by the court to assist in decision making. According to law, people's assessors had authority similar to judges, but in practice they often deferred to judges and did not exercise an independent jury-like function.

There was no presumption of innocence, and the criminal justice system was biased toward a presumption of guilt, especially in high-profile or politically sensitive cases. The combined conviction rate for first- and second-instance criminal trials was more than 99 percent in 2008; 1,008,677 defendants were tried, and 1,373 were found not guilty. In many politically sensitive trials, which rarely lasted more than several hours, the courts handed down guilty verdicts immediately following proceedings. Courts often punished defendants who refused to acknowledge guilt with harsher sentences than those who confessed. There was an appeals process, but appeals rarely resulted in reversed verdicts. Appeals processes failed to provide sufficient avenues for review, and there were inadequate remedies for violations of defendants' rights.

SPC regulations require all trials to be open to the public, with certain exceptions, such as cases involving state secrets, privacy, and minors. Authorities used the legal exception for cases involving state secrets to keep politically sensitive proceedings closed to the public and sometimes even to family members, and to withhold access to defense counsel. Under the regulations, foreigners with valid identification are allowed the same access to trials as citizens, but in practice foreigners were permitted to attend court proceedings by invitation only. As in past years, foreign diplomats and journalists sought permission to attend a number of trials only to have court officials reclassify them as "state secret" cases, fill all available seats with security officials, or otherwise close them to the public. For example, foreign diplomats requested but were denied permission to attend human rights advocate Huang Qi's February trial on charges of illegally possessing state secrets. Huang's trial was adjourned without a verdict. Some trials were broadcast, and court proceedings were a regular television feature. A few courts published their verdicts on the Internet.

The law gives most suspects the right to seek legal counsel shortly after their initial detention and interrogation, although police frequently interfered with this right. Individuals who face administrative detention do not have the right to seek legal counsel. Human rights lawyers reported that they were denied the ability to defend certain clients or threatened with punishment if they did.

Both criminal and administrative cases remained eligible for legal aid, although 70 percent or more of criminal defendants went to trial without a lawyer. According to the Ministry of Justice, the number of legal-aid cases reached 546,859 in 2008. The country had 12,778 full-time legal aid personnel, although the number of legal-aid personnel remained inadequate to meet demand. Nonattorney legal advisors provided the only legal-aid options in many areas.

Lawyers often refused to represent defendants in politically sensitive cases, and defendants frequently found it difficult to find an attorney. The government took steps to discourage lawyers from taking sensitive cases. For example, following the July unrest in the XUAR, the Beijing Municipal Judicial Bureau posted a note on its Web site urging justice bureaus, the Beijing Municipal Lawyers Association, and law firms in Beijing to "exercise caution" in representing cases related to the riots. Similar measures were taken with respect to Tibetan defendants. In some cases Beijing-based rights lawyers were told they could not represent jailed Tibetans. Local governments in the XUAR and Tibetan areas imposed arbitrary rules that defendants could be represented only by locally registered attorneys.

When defendants were able to retain counsel in politically sensitive cases, government officials sometimes prevented effective representation of counsel. Officials deployed a wide range of tactics to obstruct the work of lawyers representing sensitive clients, including unlawful detentions, disbarment, intimidation, refusal to allow a case to be tried before a court, and physical abuse. For example, in April Beijing lawyer Cheng Hai was attacked and beaten while on his way to meet with a Falun

Gong client in Chengdu. According to Cheng, those responsible for the attack were officials from the Jinyang General Management Office, Wuhou District, Chengdu. In May police officers in Chongqing arrested and beat lawyers Zhang Kai and Li Chunfu when they interviewed the family of a Falun Gong practitioner who allegedly died in police custody.

During its yearly professional evaluation procedures for Beijing attorneys, the Beijing Lawyers Association did not renew the professional licenses of a number of human rights lawyers, effectively barring them from practicing law, including Li Heping, Cheng Hai, Jiang Tianyong, Li Xiongbing, Li Chunfu, Wang Yajun, Tang Jitian, Yang Huimin, Xie Yanyi, Li Dunyong, Wen Haibo, Liu Wei, Zhang Lihui, Peng Jian, Li Jinglin, Lan Zhixue, Zhang Kai, and Liu Xiaoyuan. Two lawyers who practiced outside of Beijing, Wei Liangyue and Yang Zaixin, reported that authorities warned them that their licenses were in jeopardy. Shanghai lawyers Zheng Enchong and Guo Guoting lost their licenses in 2008 in a similar decision and, as a result, were barred from practicing law.

According to the law, defense attorneys can be held responsible if their client commits perjury, and prosecutors and judges have wide discretion to decide what constitutes perjury. In some sensitive cases, lawyers had no pretrial access to their clients, and defendants and lawyers were not allowed to speak during trials. In practice criminal defendants often were not assigned an attorney until a case was brought to court. Even in nonsensitive criminal trials, only one in seven defendants reportedly had legal representation.

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

Police and prosecutorial officials often ignored the due process provisions of the law, which led to particularly egregious consequences in death penalty cases. By law there are at least 68 capital offenses, including nonviolent financial crimes such as counterfeiting currency, embezzlement, and corruption.

In 2007 the SPC reassumed jurisdiction to conduct final review of death penalty cases handed down for immediate execution (but not death sentences handed down with a two-year reprieve). In most cases the SPC does not have authority to issue a new decision or declare a defendant innocent if it discovers errors in the original judgment; it can only approve or disapprove lower-court decisions. SPC spokesman Ni Shouming stated that since reassuming the death penalty review power in 2007, the SPC had rejected 15 percent of the cases it reviewed due to unclear facts, insufficient evidence, inappropriateness of the death sentence in some cases, and inadequate trial procedures. The SPC remanded these cases to lower courts for further proceedings, although it did not provide underlying statistics or figures. Because official statistics remained a state secret, it was not possible to evaluate independently the implementation and effects of the procedures.

Following the SPC's resumption of death penalty review power, executions were not to be carried out on the date of conviction, but only after final review by the SPC was completed. The government continued to apply the death penalty in a range of cases, including cases of economic crimes. In April a Beijing court upheld the death sentence of Yang Yanming, who was convicted of embezzlement. Yang was executed on December 8. On August 7, Li Peiying, former chairman of the Beijing Capital International Airport, was executed for bribery. On December 29, British citizen Akmal Shaikh was executed for drug-trafficking crimes.

The foreign-based Dui Hua Foundation estimated that approximately 5,000 persons were executed during the year.

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

Foreign NGOs estimated that several hundred persons remained in prison for the crime of “counterrevolution,” repealed in 1997, and thousands of others were serving sentences under the state security law, which authorities stated covers crimes similar to counterrevolution. Foreign governments urged the government to review the cases of those charged before 1997 with counterrevolution and to release those who had been jailed for nonviolent offenses under provisions of the criminal law, which were eliminated when the law was revised. At year’s end no systematic review had occurred. The government maintained that prisoners serving sentences for counterrevolution and endangering state security were eligible on an equal basis for sentence reduction and parole, but political prisoners benefited from early release at lower rates than those enjoyed by other prisoners. Dozens of persons were believed to remain in prison in connection with their involvement in the 1989 Tiananmen prodemocracy movement. International organizations estimated that at least 10 and as many as 200 Tiananmen activists remained in prison. The exact number was unknown because official statistics have never been made public.

On March 4, labor activist and lawyer Yuan Xianchen was found guilty of “inciting subversion of state power” and sentenced to four years in prison and five years’ deprivation of political rights. Yuan was detained in May 2008 after publishing an article in Beijing Spring, a New York-based human rights journal. He was formally arrested in June 2008.

Activist Huang Qi, a long-time campaigner for public recognition of Tiananmen victims, was arrested in June 2008 for possessing state secrets. On August 5, Huang was tried in Sichuan Province on charges of “illegal possession of state secrets,” and on November 24, he was sentenced to three years’ imprisonment. Also in August activist Tan Zuoren went on trial for defaming the CCP, a charge allegedly linked to his work on social issues perceived by the government as sensitive. At year’s end no verdict had been issued in his case.

Zhou Yongjun, a former Tiananmen Square student leader and foreign resident, was detained in September 2008 in Hong Kong while attempting to enter the country on a forged Malaysian passport in order to visit his ailing father. Although cleared by Hong Kong authorities of involvement in bank fraud, he was transferred to mainland authorities, detained in Shenzhen, and transferred to his hometown in Sichuan Province on the same financial charges. Zhou’s trial was held November 19, and at year’s end the case was awaiting a verdict.

Many political prisoners remained in prison or under other forms of detention at year’s end, including rights activists Hu Jia and Wang Bingzhang; Alim and Ablikim Abdureym, sons of Uighur activist Rebiya Kadeer; journalist Shi Tao; dissident Wang Xiaoning; lawyer and activist Yang Maodong (also known as Guo Feixiong); land-rights activist Yang Chunlin; Internet writer Xu Wei; labor activists Hu Mingjun, Huang Xiangwei, Kong Youping, Ning Xianhua, Li Jianfeng, Li Xintao, Lin Shun’an, Li Wangyang, and She Wanbao; CDP cofounder Qin Yongmin; family-planning whistleblower Chen Guangcheng; Catholic bishop Su Zhimin; Christian activist Zhang Rongliang; Inner Mongolian activist Hada; Uighur activist Dilkeq Tilivaldi; and Tibetan Tenzin Deleg.

Political prisoners obtained parole and sentence reduction much less frequently than ordinary prisoners. In January labor activist Yue Tianxiang was released from prison; he was convicted and sentenced to 10 years in 1999. On February 10, Uighur Tohti Tunyaz was released from prison after serving 11 years. Internet writer Yang Zili and labor activist Yao Fuxin were released from prison in March; both served their full sentences. On March 16, labor activist Yao Fuxin was released after serving his seven-year prison term on a conviction of “subversion of state power.” According to Human Rights in China, at year’s end Yao was under three years of deprivation of political rights, including the freedoms of speech, assembly, and association. On April 22, Tibetan Jigme Gyatso was released from detention.

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

Civil Judicial Procedures and Remedies.—Courts deciding civil matters suffered from internal and external limitations on judicial independence. The State Compensation Law provides administrative and judicial remedies for deprivations of criminal rights, such as wrongful arrest or conviction, extortion of confession by torture, or unlawful use of force resulting in bodily injury. In civil matters prevailing

parties often found it difficult to enforce court orders, and resistance to the enforcement sometimes extended to forcible resistance to court police.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law states that the “freedom and privacy of correspondence of citizens are protected by law”; however, in practice authorities often did not respect the privacy of citizens. Although the law requires warrants before law enforcement officials can search premises, this provision frequently was ignored; moreover, the Public Security Bureau (PSB) and prosecutors can issue search warrants on their own authority without judicial consent, review, or consideration. Cases of forced entry by police officers continued to be reported.

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

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

Family members of activists, dissidents, Falun Gong practitioners, journalists, unregistered religious figures, and former political prisoners were targeted for arbitrary arrest, detention, and harassment (see section 1.d.).

Forced relocation because of urban development continued and in some locations increased during the year. Protests over relocation terms or compensation were common, and some protest leaders were prosecuted. In rural areas relocation for infrastructure and commercial development projects resulted in the forced relocation of millions of persons.

The law prohibits the use of physical coercion to compel persons to submit to abortion or sterilization. However, intense pressure to meet birth limitation targets set by government regulations resulted in instances of local birth-planning officials using physical coercion to meet government goals. Such practices required the use of birth-control methods (particularly intrauterine devices and female sterilization, which according to government statistics accounted for more than 80 percent of birth-control methods employed) and the abortion of certain pregnancies.

In February, according to international media reports, three women who were acting as surrogate mothers were reportedly forced to undergo abortions in a hospital in Guangzhou.

In the case of families that already had two children, one parent was often pressured to undergo sterilization. The penalties sometimes left women with little practical choice but to undergo abortion or sterilization.

Laws and regulations forbid the termination of pregnancies based on the sex of the fetus, but because of the intersection of birth limitations with the traditional preference for male children, particularly in rural areas, many families used ultrasound technology to identify female fetuses and terminate these pregnancies. National Population and Family-planning Commission regulations ban nonmedically necessary determinations of the sex of the fetus and sex-selective abortions, but some experts believed that the penalties for violating the regulations were not severe enough to deter unlawful behavior. According to government estimates released in February 2008, the male-female sex ratio at birth was 120 to 100 at the end of 2007 (compared with norms elsewhere of between 103 and 107 to 100).

Several provinces—Anhui, Hebei, Heilongjiang, Hubei, Hunan, Jilin, Liaoning, and Ningxia—require “termination of pregnancy” if the pregnancy violates provincial family-planning regulations. An additional 10 provinces—Fujian, Guizhou, Guangdong, Gansu, Jiangxi, Qinghai, Sichuan, Shanxi, Shaanxi, and Yunnan—require unspecified “remedial measures” to deal with unauthorized pregnancies.

In July the Shanghai Population and Family-planning Commission announced plans to encourage couples to have a second child if both parents grew up as “only children.”

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, although the government generally did not respect these rights in practice. The government interpreted the CCP's "leading role," as mandated in the constitution, as superseding and circumscribing these rights. The government continued to control print, broadcast, and electronic media tightly and used them to propagate government views and CCP ideology. During the year the government increased censorship and manipulation of the press and the Internet during sensitive anniversaries.

Foreign journalists were largely prevented from obtaining permits to travel to Tibet except for highly controlled press visits. While foreign journalists were allowed access to Urumqi during and after the July riots, authorities forced foreign journalists to leave other cities in the XUAR.

Media outlets received regular guidance from the Central Propaganda Department (CPC), which listed topics that should not be covered, including politically sensitive topics. After events such as the July riots or the Sichuan earthquake, media outlets were told to cover the stories using content carried by government-controlled Xinhua and China Central Television. In the period preceding the October celebration of the 60th anniversary of the founding of the PRC, authorities mandated that newspapers, magazines, and other news outlets minimize the reporting of negative stories.

The General Administration of Press and Publication; the State Administration of Radio, Film, and Television, and the CPC remained active in issuing restrictive regulations and decisions constraining the content of broadcast media.

As long as the speaker did not publish views that challenged the CCP or disseminate such views to overseas audiences, the range of permissible topics for private speech continued to expand. Political topics could be discussed privately and in small groups without punishment, and criticisms of the government were common topics of daily speech. However, public speeches, academic discussions, and speeches at meetings or in public forums covered by the media remained circumscribed, as did speeches pertaining to sensitive social topics. On May 10, 19 scholars held an unauthorized academic conference in Beijing to discuss the 1989 Tiananmen crackdown. Some participants later received warnings from their employers to cease their participation in such events. Authorities also frequently intervened to halt public speeches and lectures on sensitive political topics.

In March police detained Zhang Shijun, a former soldier who publicly expressed regret over his involvement in the Tiananmen uprising, for publishing an open letter to President Hu Jintao urging the CCP to reconsider its condemnation of the 1989 demonstrations. At year's end his whereabouts remained unknown.

In March and May, police interrogated and searched the home of Jiang Qisheng, Chinese PEN center vice president, author of a widely cited report on the Tiananmen uprising and an original signer of Charter 08.

The government also frequently monitored gatherings of intellectuals, scholars, and dissidents where political or sensitive issues were discussed. Those who aired views that disagreed with the government's position on controversial topics or disseminated such views to domestic and overseas audiences risked punishment ranging from disciplinary action at government work units to police interrogation and detention. In December 2008, to commemorate human rights day, a group of 303 intellectuals and activists released a petition entitled Charter 08, calling for human rights and democracy. Within one month more than 7,300 persons signed the petition, of whom police questioned at least 100. Many Charter 08 signers reported experiencing harassment during the year, especially around the time of sensitive anniversaries, trials, or official visits.

The CPC continued to list subjects that were off limits to the domestic media, and the government maintained authority to approve all programming. Nearly all print media, broadcast media, and book publishers were owned by, or affiliated with, the CCP or a government agency. There were a small number of privately owned print publications but no privately owned television or radio stations.

International media were not allowed to operate freely and faced heavy restrictions. In February two New York Times reporters were detained for 20 hours after police stopped their car in a Tibetan area of Gansu Province. Authorities made the two spend the night in Lanzhou, the provincial capital, and eventually forced them to return to Beijing. In April reporters with the Voice of America (VOA) were detained for two hours in Sichuan Province before being told that they could not proceed farther. Local authorities first told them that it was illegal for tourists to visit the area and later told them they could not proceed because of "hazardous road conditions."

In May a Financial Times correspondent reporting in Mianzhu on families who lost children during the Sichuan earthquake was followed to an interview and attacked by unknown assailants who tried to take his camera. When police arrived, they also tried to take his video camera by force. Also in May on three separate occasions, foreign reporters were attacked while filming in Sichuan.

Authorities barred foreign journalists from filming in, or entering, Tiananmen Square during the 20th anniversary of the crackdown on prodemocracy demonstrations. On July 10, police detained and deported an Associated Press photographer for taking pictures in Kashgar. In September police broke into the hotel room of three journalists from Kyodo News covering a National Day parade rehearsal, beat them, and destroyed their computers. On September 4, antiriot police beat three Hong Kong reporters in Urumqi. Five other Hong Kong reporters were briefly detained the same day in Urumqi to prevent them from filming protests.

In July the Foreign Correspondent's Club of China (FCCC) polled its members about reporting conditions following the 2008 Olympics. FCCC members reported 23 incidents of violence against reporters, sources, or assistants, along with multiple incidents of destruction of photographs or reporting materials, intimidation, and summoning for questioning by authorities. They also reported 100 incidents of being denied access to public spaces by authorities.

The government refused to grant a visa to a foreign journalist who was planning to serve as the newspapers' new bureau chief in Beijing.

Authorities tightened restrictions on citizens working as assistants for foreign news bureaus. In February the government issued a code of conduct for news assistants of foreign correspondents. The code threatens dismissal and loss of accreditation if news assistants engage in "independent reporting" and instructs them to provide their employers with information that projects a good image of the country. The FCCC denounced the code of conduct as part of a government effort to intimidate news assistants.

Officials can be punished for unauthorized contact with journalists. Editors and journalists continued to practice self-censorship as the primary means for the party to limit freedom of the press on a day-to-day basis. Official guidance on permitted speech was often vague, subject to change at the whim of propaganda officials, and retroactively enforced. Propaganda authorities can force newspapers to fire editors and journalists who print articles that conflict with official views and can suspend or close publications. The system of postpublication punishment encourages editors to take a conservative approach, since a publication could face enormous business losses if it were suspended for inadvertently printing forbidden content.

Government officials used criminal prosecution, civil lawsuits, and other punishments, including violence, detention, and other forms of harassment, to intimidate authors and domestic journalists and block controversial writings. In June police arrested writer, former Tiananmen prisoner, and dissident Wu Gaoxing for publishing a letter asserting that former Tiananmen prisoners were facing economic hardships because of their past political troubles.

A domestic journalist can face demotion or job loss for publishing views that challenge the government.

Journalists who remained in prison included Lu Gengsong, Lu Jianhua, Huang Jinqiu, Cheng Yizhong, and Shi Tao. On February 10, Yu Huafeng was released from prison.

Journalists and editors who exposed corruption scandals frequently faced problems with the authorities. In May officials in Hubei physically assaulted two reporters, Kong Pu from the Beijing Times and Wei Yi from the Nangfang People's Weekly, as they researched a story of a waitress who killed a party official when he attempted to assault her.

According to an official report, during the year authorities confiscated more than 65 million copies of pornographic, pirated, and unauthorized publications. Officials continued to censor, ban, and sanction reporting on labor, health, environmental crises, and industrial accidents. Authorities restricted reporting on stories such as the melamine milk scandal, schools destroyed during the Sichuan earthquake, and the July riots in Urumqi. Authorities also continued to ban books with content they deemed controversial.

The law permits only government-approved publishing houses to print books. The State Press and Publications Administration (PPA) controlled all licenses to publish. No newspaper, periodical, book, audio, video, or electronic publication may be printed or distributed without the PPA and relevant provincial publishing authorities' approval of both the printer and distributor. Individuals who attempted to publish without government approval faced imprisonment, fines, confiscation of their books, and other sanctions. The CCP exerted control over the publishing industry by preemptively classifying certain topics as off limits.

Many intellectuals and scholars exercised self-censorship, anticipating that books or papers on political topics would be deemed too sensitive to be published. The censorship process for private and government media also increasingly relied on self-censorship and, in a few cases, postpublication sanctions.

According to the PEN American Center, Korash Huseyin, former editor of the Uighur-language Kashgar Literature Journal, was released in 2008, but his whereabouts were unknown. Korash Huseyin, who was sentenced in 2004 to three years in prison for publishing a short story that authorities considered critical of CCP rule of Xinjiang, remained in prison serving a 10-year sentence.

The authorities continued to jam, with varying degrees of success, Chinese-, Uighur-, and Tibetan-language broadcasts of the VOA, BBC, and RFA. English-language broadcasts on VOA generally were not jammed. Government jamming of RFA and BBC appeared to be more frequent and effective. Internet distribution of streaming radio news and podcasts from these sources often was blocked. Despite jamming overseas broadcasts, VOA, BBC, RFA, Deutsche Welle, and Radio France International had large audiences, including human rights advocates, ordinary citizens, and government officials.

Television broadcasts of foreign news, which were largely restricted to hotels and foreign residence compounds, were occasionally subject to censorship. Such censorship of foreign broadcasts also occurred around the anniversary of the 1989 crackdown in Tiananmen Square. Individual issues of foreign newspapers and magazines were occasionally banned when they contained articles deemed too sensitive.

Politically sensitive coverage in Chinese, and to a lesser extent in English, was censored more than coverage in other languages. The government prohibited some foreign and domestic films deemed too sensitive.

Internet Freedom.—During the year the China Internet Network Information Center reported that the number of Internet users increased to 338 million, 94 percent of whom had broadband access. The government increased its efforts to monitor Internet use, control content, restrict information, block access to foreign and domestic Web sites, encourage self-censorship, and punish those who violated regulations, but these measures were not universally effective.

The MPS, which monitors the Internet under guidance from the CPC, employed thousands of persons at the national, provincial, and local levels to monitor electronic communications. Xinhua News Agency reported that in 2008, authorities closed 14,000 illegal Web sites and deleted more than 490,000 items of “harmful” content from the Internet. In January the government began an “antivulgarity” campaign aimed at cracking down on “unhealthy information” on the Internet. In January official media claimed that the campaign had resulted in the closure of 1,250 Web sites and the deletion of more than 3.2 million items of information. Many Web sites included images of cartoon police officers that warn users to stay away from forbidden content. Operators of Web portals, blog-hosting services, and other content providers engaged in self-censorship to ensure their servers were free from politically sensitive content. Domestic Web sites that refused to self-censor political content were shut down, and many foreign Web sites were blocked.

During the year major news portals, which reportedly were complying with secret government orders, began requiring users to register using their real names and identification numbers to comment on news articles. Individuals using the Internet in public libraries were required to register using their national identity card. Internet usage reportedly was monitored at all terminals in public libraries. Internet cafes were required to install software that allows government officials to monitor customers’ Internet usage. Internet users at cafes were often subject to surveillance. Many cafes sporadically enforced regulations requiring patrons to provide identification. In June the Ministry of Industry and Information Technology issued a directive instructing Internet cafes and schools to install “Green Dam” software designed to censor objectionable Internet content based on an updatable central database. The software had been intended for installation in all computers sold in the country; however, objections from industry groups, Internet users, and foreign governments appeared to contribute to the indefinite postponement of enforcement of the directive.

The government consistently blocked access to Web sites it deemed controversial, especially those discussing Taiwan and Tibetan independence, underground religious and spiritual organizations, democracy activists, and the 1989 Tiananmen crackdown. The government also at times blocked access to selected sites operated by major foreign news outlets, health organizations, foreign governments, educational institutions, and social networking sites, as well as search engines, that allow rapid communication or organization of users.

During the year, particularly during periods around sensitive events, authorities maintained tight control over Internet news and information. Access to foreign and

domestic social networking sites was limited around the 20th anniversary of the Tiananmen crackdown and immediately following the July unrest in the XUAR, and many sites remained blocked during other major events. In the wake of the deadly July riots in Urumqi, the government asserted that information spread on the Internet contributed to the violence, resulting in the complete shutdown of all Internet access, text messaging, and international telephone calls from the region. At the end of the year, international calls, full Internet access, and text messaging capabilities remained limited.

Authorities employed an array of technical measures to block sensitive Web sites based in foreign countries. The ability of users to access such sensitive sites varied from city to city. The government also automatically censored e-mail and Web chats based on an ever-changing list of sensitive key words, such as “Falun Gong” and “Tibetan independence.” While such censorship was effective in keeping casual users away from sensitive content, it was defeated easily through the use of various technologies. Software for defeating official censorship was readily available inside the country. Despite official monitoring and censorship, during the year dissidents and political activists continued to use the Internet to advocate and call attention to political causes such as prisoner advocacy, political reform, ethnic discrimination, corruption, and foreign policy concerns. Web users spanning the political spectrum complained of censorship. The blogs of a number of prominent activists, artists, scholars, and university professors were periodically blocked during the year.

Given the limitations of technical censorship, self-censorship by Internet companies remained the primary means for authorities to restrict speech online. All Web sites are required to be licensed by, or registered with, the Ministry of Industry and Information Technology, and all Internet content providers faced potential suspension of their licenses for failing to adequately monitor users of e-mail, chat rooms, and instant messaging services. The Internet Society of China, a group composed of private and state-run Internet companies, government offices, and academic institutions, cosponsored a Web site, China Internet Illegal Information Reporting Centre, which invited members of the public to report illegal online activity. Users were able to use the site to report not only crimes such as pornography, fraud, and gambling but also “attacks on the party and government.” Self-censorship by blog-hosting services intensified prior to sensitive events.

Authorities continued to jail numerous Internet writers for peaceful expression of political views. In July Wu Baoquan was sentenced to 18 months in prison for posting articles critical of the local government of the northern region of Inner Mongolia. In September the court convicted Wu of libel for publicizing the efforts of farmers who fought local officials over land rights.

Also in July three bloggers—Fan Yanqiong, Wu Huaying, and You Jingyou—were charged with “false allegations with intent to harm” for reporting that a young woman was raped and killed by a group of men that included local officials.

On November 12, authorities sentenced Kunchok Tsephel, literary Web site editor and founder of Chodme (tibetcm.com), to 15 years in prison on a charge of “divulging state secrets” in connection with some of the Web site’s content. On November 14, a court in Gansu Province sentenced Kunga Tseyang to five years in prison. Police arrested Tseyang (pen name Snow Sun) on March 17 for articles he posted on a Tibetan Web site.

In November 2008 Chen Daojun, an Internet writer and environmental activist, was sentenced to three years in prison for “inciting subversion of state power.” Chen was arrested after he participated in an environmental protest and posted articles online supportive of Tibetan demonstrators. According to Chen’s lawyer, three of his articles were submitted as evidence that he had attacked the CCP.

In January blogger Jia Xiaoyin was released from prison after six months in detention. On April 18, authorities released Internet writer Zhu Yufu from prison. In August blogger Guo Baofeng, known online as Amoiist, was released from prison after his announcement of his own arrest on the social networking site Twitter sparked a letter-writing campaign calling for his release.

According to Reporters Without Borders, at year’s end there were 30 reporters and 68 cyberdissidents in prison.

Regulations prohibit a broad range of activities that authorities interpret as subversive or slanderous to the state. Internet service providers were instructed to use only domestic media-news postings, to record information useful for tracking users and their viewing habits, to install software capable of copying e-mails, and to end immediately transmission of “subversive material.”

Academic Freedom and Cultural Events.—The government continued its restrictions on academic or artistic freedom and political and social discourse at colleges, universities, and research institutes.

Authorities canceled university conferences and speaking events involving foreign and domestic academics on short notice when they deemed the topics too sensitive or the timing too close to a sensitive date. Information outreach, educational exchanges, and other cultural and public diplomacy programs organized by foreign governments occasionally were subject to government interference. Foreign experts invited to participate in foreign-government-sponsored programs on certain topics were denied visas. Central or provincial authorities disciplined university administrators for showing the film *Please Vote for Me* by Chen Weijun in May, a film on student elections in a third-grade class in Wuhan.

In September the government denied visa applications from two foreign filmmakers, preventing them from participating in panels and attending the screening of their documentary about the Sichuan earthquake at the Beijing Independent Film Festival. Festival organizers invited the pair as headliners for the festival but delayed publication of the exact location of the screening until only hours before the event in an effort to minimize the possibility of interference from security officials.

During the year the government imposed new restrictions on cultural expression and banned artists it deemed controversial. The government continued to use political attitudes and affiliations as criteria for selecting persons for the few government-sponsored study-abroad programs but did not impose such restrictions on privately sponsored students. The government and the party controlled the appointment of high-level officials at universities. While party membership was not always a requirement to obtain a tenured faculty position, scholars without party affiliation often had fewer chances for promotion.

Researchers residing abroad were subject to sanctions, including denial of visas, when their work did not meet with official approval.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The law provides for freedom of peaceful assembly; however, the government severely restricted this right in practice. The law stipulates that such activities may not challenge “party leadership” or infringe upon the “interests of the state.” Protests against the political system or national leaders were prohibited. Authorities denied permits and quickly suppressed demonstrations involving expression of dissenting political views.

In May parents of Sichuan earthquake victims were told not to gather at the sites of destroyed schools for a memorial service. Those who planned to mark the anniversary of the earthquake were reportedly detained or threatened with detention. In June authorities prevented several Tiananmen mothers, including Ding Zilin, from joining memorial services or otherwise marking the date when their children died; plainclothes officers reportedly followed Ding and her husband to ensure compliance. In September there were several reports of parents being detained or otherwise prevented from gathering to commemorate the anniversary of the melamine milk scandal.

All concerts, sports events, exercise classes, or other meetings of more than 200 persons require approval from public security authorities. Although peaceful protests are legal, in practice police rarely granted approval. Despite restrictions, there were many demonstrations, but those with political or social themes were broken up quickly, sometimes with excessive force. The number of “mass incidents” or violent protests against local government increased during the year. As in past years, the vast majority of demonstrations concerned land disputes; housing issues; industrial, environmental, and labor matters; government corruption; taxation; and other economic and social concerns. Others were provoked by accidents or related to personal petition, administrative litigation, and other legal processes.

The ability of an individual to petition the government is protected by law; however, persons petitioning the government continued to face restrictions on their rights to assemble and raise grievances. Most petitions addressed grievances about land, housing, entitlements, the environment, or corruption. Most petitioners sought to present their complaints at national and provincial “letters and visits” offices. In September three dozen parents reportedly gathered in Beijing to draw attention to their belief that unsafe vaccines sickened their children. Local officials forcibly returned them to their hometowns.

Although regulations banned retaliation against petitioners, reports of retaliation continued. This was partly due to incentives provided to local officials by the central government to prevent petitioners in their regions from raising complaints to higher levels. Incentives included provincial cadre evaluations based in part on the number of petitions from their provinces. This initiative aimed to encourage local and provincial officials to resolve legitimate complaints but also resulted in local officials sending security personnel to Beijing and forcibly returning the petitioners to their home provinces. Such detentions occurred before and after the enactment of the new regulations and often went unrecorded. In August the General Office of the State

Council issued new guidelines for handling petitioners. According to the new rules, officials are to be sent from Beijing to the provinces to resolve petition issues locally, thereby reducing the number of petitioners entering Beijing. Other new rules include a mandated 60-day response time for petitions and a regulation instituting a single appeal in each case.

Freedom of Association.—The law provides for freedom of association, but the government restricted this right in practice. CCP policy and government regulations require that all professional, social, and economic organizations officially register with, and be approved by, the government. In practice these regulations prevented the formation of truly autonomous political, human rights, religious, spiritual, labor, and other organizations that might challenge government authority.

The government maintained tight controls over civil society organizations. Legal and surveillance efforts aimed at controlling them increased. There were reports that the government maintained a task force aimed at blocking political change advocated by NGOs involved in social, political, and charitable activities, and also by groups dedicated to combating discrimination against women, persons with disabilities, and minorities.

To register, an NGO must find a government agency to serve as its organizational sponsor, have a registered office, and hold a minimum amount of funds. Some organizations with social or educational purposes that previously had been registered as private or for-profit businesses reportedly were requested to find a government sponsor and reregister as NGOs during the year. Although registered organizations all came under some degree of government control, some NGOs were able to operate with some degree of independence.

The number of NGOs continued to grow, despite tight restrictions and regulations. According to the World Bank, at year's end there were more than 415,000 officially registered civil society organizations. NGOs existed under a variety of formal and informal guises, including national mass organizations created and funded by the CCP.

The lack of legal registration created numerous logistical challenges for NGOs, including difficulty opening bank accounts, hiring workers, and renting office space. NGOs that opted not to partner with government agencies could register as commercial consulting companies, which allowed them to obtain legal recognition at the cost of forgoing tax-free status. Security authorities routinely warned domestic NGOs, regardless of their registration status, not to accept donations from the National Endowment for Democracy and other international organizations deemed sensitive by the government. Authorities supported the growth of some NGOs that focused on social problems, such as poverty alleviation and disaster relief but remained concerned that these organizations might emerge as a source of political opposition. Many NGOs working in the Tibet Autonomous Region (TAR) were forced to leave because their project agreements were not renewed by their local partners following unrest in Lhasa and other Tibetan communities in March 2008.

On July 29, officials arrested Xu Zhiyong, cofounder of the Open Constitution Initiative (OCI, or Gongmeng), a civil society organization and legal research center, on accusations of tax evasion. Media reports suggested he was arrested because of his legal work on behalf of families affected by the melamine-tainted milk scandal. Officials also raided the OCI's offices, seized equipment, and ordered the OCI to close. On August 23, after a public outcry, Xu and an OCI office assistant were released from jail on bail.

No laws or regulations specifically govern the formation of political parties. However, the CDP remained banned, and the government continued to monitor, detain, and imprison current and former CDP members.

c. Freedom of Religion.—The constitution and laws provide for freedom of religious belief and the freedom not to believe. The constitution limits protection of religious activities to those the government defined as "normal." The constitution states that religious bodies and affairs are not to be "subject to any foreign domination" and that the individual exercise of rights "may not infringe upon the interests of the state."

The government continued to strictly control religious practice and repress religious activity outside government-sanctioned organizations and registered places of worship. The government controlled the growth and scope of the activity of both registered and unregistered religious groups, including house churches. Government authorities limited proselytizing, particularly by foreigners and unregistered religious groups, but permitted proselytizing in state-approved religious venues and private settings. Throughout the country foreign citizens' participation in religious activities was viewed by the government as highly suspect and, in some cases, led to repercussions against both Chinese citizens and foreign citizens.

Religious groups are regulated by the 2005 Regulations on Religious Affairs, which indicate that the State Administration for Religious Affairs (SARA) or the religious affairs bureaus (RABs) supervise all religious activities. To be considered legal, religious groups must register with a government-affiliated patriotic religious association (PRA) associated with one of the five recognized religions: Buddhism, Taoism, Islam, Protestantism, and Catholicism. Religious groups must register according to the Regulations on Social Organizations (RSO), which specifies that organizations must find a supervisory unit to sponsor their application. Religious groups that register under the RSO need to obtain the sponsorship of SARA or the RABs. The PRAs supervised activities of each religious group and liaised with government religious affairs authorities charged with monitoring religious activity. Government efforts to control and regulate religious groups, particularly unregistered groups, continued. Nonetheless, freedom to participate in religious activities continued to increase in many areas. Religious participation grew not only among the five main religions but also among the Eastern Orthodox Church and folk religions. Because the RSO states no organization may be registered in the same area if another organization is already performing similar work, no religious groups other than the five PRAs have registered at the national level. Unregistered groups reported that local RABs also would not approve registration applications without support from the relevant PRA.

Several large house churches reported increased government interference with their activities in periods preceding sensitive anniversaries. In Beijing the government reportedly pressured landlords to stop renting space to house church groups. During an outdoor worship service, authorities reportedly conducted surveillance, used loudspeakers to warn against unauthorized public gatherings, detained church leaders to prevent them from attending services, and closed public parks to dissuade the groups from gathering.

In September in Shanxi Province, members of the Linfen house church and police were involved in a confrontation over the demolition of a church building. Five church leaders were charged with “disrupting public order” and sentenced to between two and three years of RTL.

On March 5, Premier Wen Jiabao delivered a government report stating, “We will fully implement the party’s basic principles on work related to religions and enable religious figures and people with religious belief to play a positive role in promoting economic and social development.” The work of faith-based organizations became more visible during and after the Sichuan earthquake of May 2008. Nevertheless, leaders of such organizations reported that, due to the continued lack of official registration, they were not allowed to fundraise publicly, hire employees, or open bank accounts.

The government’s repression of religious freedom continued in Tibetan areas and intensified in the XUAR. Followers of Tibetan Buddhism, including those in the Inner Mongolian Autonomous Region and most Tibetan autonomous areas, faced more restrictions on their religious practice and ability to organize than Buddhists in other parts of the country. However, Buddhist communities outside of Tibet also faced continued government controls, and unregistered Buddhist temples remained subject to closure or demolition. The Tibetan Buddhist Labrang Monastery, in Gansu Province, was closed to foreign visitors for several months following 2008 unrest in and around the monastery. A heavy security presence remained in this and other Tibetan Buddhist monastery areas.

In the XUAR the government often conflated peaceful religious and political expression with the “three evils” of religious extremism, terrorism, and separatism. Government policies that repressed religious activities included surveillance in mosques, regulation of sermons, and public admonishments against and punishment of individuals engaging in “illegal religious activities.”

In August 2008 authorities in Kashgar reportedly issued accountability measures to local officials who were responsible for high-level surveillance of religious activity in the XUAR. Also in August 2008 in Kashgar District, authorities called for “enhancing management” of groups that included religious figures, as part of broader measures of “prevention” and “attack.” On December 29, the official XUAR government Web site announced that a new law on “education for ethnic unity in Xinjiang” had been adopted at a local legislature session. The law reportedly bars individuals and organizations from spreading opinions deemed not conducive to national unity and also from gathering, producing, and spreading information to that effect.

XUAR authorities maintained the most severe legal restrictions in the country on children’s right to practice religion. Authorities continued to prohibit the teaching of Islam outside the home to elementary- and middle-school-age children in some areas, and children under the age of 18 were prohibited from entering mosques in some areas.

Authorities reserved the right to censor imams' sermons, and imams were urged to emphasize the damage caused to Islam by terrorist acts in the name of the religion. Certain Muslim leaders received particularly harsh treatment. Authorities in some areas conducted monthly political study sessions for religious personnel, which, according to one CCP official who took part in a study session, called for "creatively interpreting and improving" religious doctrine. Authorities also reportedly tried to restrict Muslims' opportunities to study religion overseas. The China Islamic Conference required religious personnel to study "new collected sermons" compiled by the Muslim PRA, the Islamic Association of China, including messages on patriotism and unity aimed at building a "socialist harmonious society." In contrast to the heavy-handed approach to Muslims in the XUAR, officials in Ningxia, Gansu, Qinghai, and Yunnan provinces generally did not interfere heavily in Muslims' activities.

On October 27, a Xinjiang court sentenced Uighur Christian house church leader Alimujiang Yimiti to 15 years in prison on charges of "divulging state secrets." Yimiti was originally accused of engaging in illegal religious activities in the name of business and preaching Christianity to ethnic Uighurs, according to an overseas NGO. At year's end his case was on appeal. In 2008 the Kashgar District Intermediate People's Court tried Yimiti on the charge of endangering national security but eventually returned his case to prosecutors due to insufficient evidence. The UN Working Group on Arbitrary Detention declared Yimiti's arrest and detention arbitrary in 2008.

Harassment of unregistered Catholic bishops, priests, and laypersons continued, including government surveillance and detentions. On March 31, Bishop Jia Zhiguo was arrested again. At year's end his whereabouts were unknown. There was no new information about unregistered Bishop Su Zhimin, who remained unaccounted for since his reported detention in 1997.

The Catholic Patriotic Association (CPA) did not recognize the authority of the Holy See to appoint bishops. However, it allowed the Vatican's discreet input in selecting some bishops.

The distinction between the official Catholic Church, which the government controlled politically, and the unregistered Catholic Church was less distinct than in the past. In some official Catholic churches, clerics led prayers for the pope, and pictures of the pope were displayed. An estimated 90 percent of official Catholic bishops have reconciled with the Vatican. Likewise, the large majority of Catholic bishops appointed by the government have received official approval from the Vatican through "apostolic mandates."

Authorities continued a general crackdown on groups considered to be "cults." These "cults" included not only Falun Gong and various traditional Chinese meditation and exercise groups (known collectively as "qigong" groups) but also religious groups that authorities accused of preaching beliefs outside the bounds of officially approved doctrine.

Public Falun Gong activity in the country remained negligible, and practitioners based abroad reported that the government's crackdown against the group continued. In the past the mere belief in the discipline (even without any public practice of its tenets) sometimes was sufficient grounds for practitioners to receive punishments ranging from loss of employment to imprisonment. Falun Gong sources estimated that since 1999 at least 6,000 Falun Gong practitioners had been sentenced to prison, more than 100,000 practitioners had been sentenced to RTL, and almost 3,000 had died from torture while in custody. Some foreign observers estimated that Falun Gong adherents constituted at least half of the 250,000 officially recorded inmates in RTL camps, while Falun Gong sources overseas placed the number even higher.

Falun Gong members identified by the government as "core leaders" were singled out for particularly harsh treatment. More than a dozen Falun Gong members were sentenced to prison for the crime of "endangering state security," but the great majority of Falun Gong members convicted by the courts since 1999 were sentenced to prison for "organizing or using a sect to undermine the implementation of the law," a less serious offense. Most practitioners, however, were punished administratively. Some practitioners were sentenced to RTL. Others were sent to "legal education" centers specifically established to "rehabilitate" practitioners who refused voluntarily to recant their belief in public after their release from RTL camps. Government officials denied the existence of such "legal education" centers. In addition, hundreds of Falun Gong practitioners were confined to mental hospitals, according to overseas groups.

Police continued to detain current and former Falun Gong practitioners and used possession of Falun Gong material as a pretext for arresting political activists. The government continued its use of high-pressure tactics and mandatory anti-Falun

Gong study sessions to force practitioners to renounce Falun Gong. Even practitioners who had not protested or made other public demonstrations of belief reportedly were forced to attend anti-Falun Gong classes or were sent directly to RTL camps. These tactics reportedly resulted in large numbers of practitioners signing pledges to renounce the movement.

The government supported atheism in schools. Authorities in many regions barred school-age children from attending religious services at mosques, temples, or churches and prevented them from receiving religious education outside the home.

Official religious organizations administered local religious schools, seminaries, and institutes to train priests, ministers, imams, Islamic scholars, and Buddhist monks. Students who attended these institutes had to demonstrate "political reliability," and all graduates had to pass an examination on their political, as well as theological, knowledge to qualify for the clergy. The government permitted registered religions to train clergy and allowed an increasing number of Catholic and Protestant seminarians, Muslim clerics, and Buddhist clergy to go abroad for additional religious studies, but some religion students had difficulty getting passports or obtaining approval to study abroad. In most cases foreign organizations provided funding for such training programs.

The five PRAs published religious literature, and state-run publishing houses published religious materials. However, printing of the Bible was limited to Amity Press and to a few presses affiliated with CPA dioceses that published the Catholic Bible. Bibles produced through these means could be purchased at Three-Self Patriotic Movement or CPA churches. The government authorized publishers (other than Amity Press) to publish at least a thousand other Christian titles. Amity has published more than 50 million Bibles for Chinese readership and distributed them through a network of 70 urban distribution points and a mobile distribution network that traveled to rural areas. Increased demand for Bibles and other Christian literature was noted by groups that print, buy, and sell Bibles, and members of unregistered churches reported that the supply and distribution of Bibles was inadequate, particularly in rural locations. Individuals could not order Bibles directly from publishing houses. Customs officials continued to monitor for the "smuggling" of religious materials into the country. In recent years individuals were imprisoned for printing and receiving unauthorized Bibles. Authorities in some areas reportedly confiscated Bibles, Korans, and other religious material. In June Shi Weihai was sentenced to three years in prison for "illegal business practices" (printing Bibles). The Xinjiang People's Publication House was the only publisher officially permitted to print Muslim literature.

Societal Abuses and Discrimination.—There were no reports of societal abuses of religious practitioners or anti-Semitic acts during the year. The government does not recognize Judaism as an ethnicity or religion.

For a more detailed discussion, see the 2009 International Religious Freedom Report at <http://www.state.gov/j/drl/rls/irf/>.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation; however, the government generally did not respect these rights in practice. The government sometimes cooperated with the UNHCR in providing protection and assistance to refugees, asylum seekers, and other persons of concern.

Authorities heightened restrictions on freedom of movement periodically, particularly to curtail the movement of individuals deemed politically sensitive before key anniversaries and visits of foreign dignitaries and to forestall demonstrations. Freedom of movement continued to be extremely limited in the TAR and other Tibetan areas. Police maintained checkpoints in most counties and on roads leading into many towns, as well as within major cities such as Lhasa.

Although the government maintained restrictions on the freedom to change one's workplace or residence, the national household registration system ("hukou") continued to change, and the ability of most citizens to move within the country to work and live continued to expand. Rural residents continued to migrate to the cities, where the per capita disposable income was more than four times the rural per capita income, but many could not officially change their residence or workplace within the country. Most cities had annual quotas for the number of new temporary residence permits that could be issued, and all workers, including university graduates, had to compete for a limited number of such permits. It was particularly difficult for rural residents to obtain household registration in more-economically developed urban areas.

The household registration system added to the difficulties rural residents faced even after they relocated to urban areas and found employment. The National Bu-

reau of Statistics reported that there were 225 million migrant workers at the end of 2008. These economic migrants lacked official residence status in cities, and it was difficult for them to gain full access to social services, including education, despite laws, regulations, and programs meant to address their needs. Migrant workers had little recourse when subject to abuse by employers and officials. Some major cities maintained programs to provide migrant workers and their children access to public education and other social services free of charge, but migrants in some locations reported that it was difficult to qualify for these benefits in practice.

Under the “staying at prison employment” system applicable to recidivists incarcerated in RTL camps, authorities denied certain persons permission to return to their homes after serving their sentences. Some released or paroled prisoners returned home, but they were not permitted freedom of movement.

The government permitted legal emigration and foreign travel for most citizens. There were reports that some academics and activists continued to face travel restrictions around sensitive anniversaries. Most citizens could obtain passports, although those whom the government deemed threats, including religious leaders, political dissidents, and ethnic minorities, were refused passports or otherwise prevented from traveling overseas. In July Tsering Wooser, a well-known Tibetan writer, filed a lawsuit against the government for denying her a passport for more than three years. At year's end she had not received a passport. In Tibetan regions of Qinghai, Gansu, and Sichuan provinces, in addition to the TAR, ethnic Tibetans experienced great difficulty applying for passports. The unwillingness of the PSB in Tibetan areas to issue or renew passports for ethnic Tibetans created, in effect, a ban on foreign travel for a large segment of the Tibetan population. Han residents of Tibetan areas, however, did not experience the same difficulties.

The law neither provides for a citizen's right to repatriate nor otherwise addresses exile. The government continued to refuse reentry to numerous citizens who were considered dissidents, Falun Gong activists, or troublemakers. Although some dissidents living abroad were allowed to return, dissidents released on medical parole and allowed to leave the country often were effectively exiled. Activists residing abroad were imprisoned upon their return to the country.

On December 19, the Royal Government of Cambodia, at the request of PRC authorities, forcibly returned a group of 20 Uighur asylum seekers to the country.

The government continued to try to prevent many Tibetans from leaving and detained many who were apprehended in flight (see Tibet Addendum). By year's end 838 Tibetans had arrived at the UNHCR reception center in Kathmandu. The biggest disparities in arrivals occurred during the heavily trafficked fall and winter months when border security historically was weak. Decreased flows were attributed to tightened security across Tibet, along the border and inland, in the wake of the Lhasa crackdown in March 2008.

Protection of Refugees.—Although the country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 protocol, the law does not provide for the granting of refugee or asylum status. The government largely cooperated with the UNHCR when dealing with the resettlement of ethnic Han Chinese or ethnic minorities from Vietnam and Laos resident in the country. During the year the government and the UNHCR continued discussions concerning the granting of citizenship to these residents.

While the government officially acknowledged that 37,000 residents of Kokang, in northeastern Burma, fled across the border into Yunnan during the Burmese army crackdown in August, they were not officially designated as refugees. The government did not respond to a UNHCR request for access to the border areas.

The government continued to consider all North Koreans “economic migrants” rather than refugees, and the UNHCR continued to have limited access to North Korean refugees inside China. The lack of access to UNHCR-supported durable solutions and options, as well as constant fear of forced repatriation by authorities, left North Korean refugees vulnerable to human traffickers. Even refugees under UNCHR care were subjected to harassment and restrictions by authorities. The government continued to deny the UNHCR permission to operate along its northeastern border with North Korea.

In practice the government did not provide protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. Some North Koreans were permitted to travel to third countries after they entered diplomatic compounds in the country. The intensified crackdown begun in 2008 against North Korean refugees reportedly extended to harassment of religious communities along the border. The undocumented children of some North Korean asylum seekers and of mixed couples (i.e., one Chinese parent and one North Korean parent) reportedly did not have access to health care, public edu-

cation, or other social services. The government also arrested and detained individuals who provided food, shelter, transportation, and other assistance to North Koreans. According to reports, some activists or brokers detained for assisting North Koreans were charged with human smuggling, and in some cases the North Koreans were forcibly returned to North Korea. There were also reports that North Korean agents operated clandestinely within the country to forcibly repatriate North Korean citizens.

The government does not grant refugee or asylum status to refugees in China, although it allows the UNHCR more latitude in assisting non-North Korean refugees. At year's end UNHCR Beijing had processed refugee claims for approximately 100 non-North Korean refugees in China (from Pakistan, Iraq, Somalia, and Eritrea). However, because these individuals were not officially recognized refugees, they remained in the country as illegal immigrants unable to work, with no access to education, and deportable by the host government at anytime.

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

The constitution states that "all power in the People's Republic of China belongs to the people" and that the organs through which the people exercise state power are the NPC and the people's congresses at provincial, district, and local levels. However, the law does not provide citizens with the right to change their government peacefully, and citizens cannot freely choose or change the laws and officials that govern them. The CCP continued to control appointments to positions of political power.

Elections and Political Participation.—According to the law, the NPC is the highest organ of state power. Formally, the NPC, composed of 2,987 deputies, elects the president and vice president, the premier and vice premiers, and the chairman of the State Central Military Commission. In practice the NPC Standing Committee, which is composed of 175 members, oversaw these elections and determined the agenda and procedure for the NPC.

The NPC Standing Committee remained under the direct authority of the party, and most legislative decisions require the concurrence of the CCP's nine-member Politburo Standing Committee. Despite its broad authority under the state constitution, the NPC does not set policy independently or remove political leaders without the party's approval.

According to statistics from the Ministry of Civil Affairs, almost all of the country's more than 600,000 villages had implemented direct elections for members of local subgovernment organizations known as village committees. The direct election of officials by ordinary citizens remained narrow in scope and strictly confined to the local level. The government estimated that one-third of all elections had serious procedural flaws. Corruption, vote buying, and interference by township-level and party officials continued to be problems. The law permits each voter to cast proxy votes for up to three other voters.

The election law governs legislative bodies at all levels. Under this law citizens have the opportunity to vote for local people's congress representatives at the county level and below, although in most cases the nomination of candidates in those elections was controlled by higher-level government officials or party cadres. At higher levels legislators selected people's congress delegates from among their ranks. For example, provincial-level people's congresses selected delegates to the NPC. Local CCP secretaries generally served concurrently as the head of the local people's congress, thus strengthening party control over legislatures.

Official statements asserted that "the political party system [that] China has adopted is multiparty cooperation and political consultation under" the CCP leadership. However, the CCP retained a monopoly on political power, and the government forbade the creation of new political parties. The government recognized nine parties founded prior to 1949, and 30 percent of NPC seats were held by parties other than the CCP. The establishment of new parties is functionally prohibited, and activists attempting to support unofficial parties have been arrested, detained, or confined.

On September 15, in Hunan Province, dissident Xie Changfa, who tried to organize a national meeting of the banned China Democratic Party, was sentenced to 13 years in prison. On October 16, after spending nine months in prison, Guo Quan was sentenced to 10 years in prison and 3 years of deprivation of political rights for "subversion of state power." Guo, a former Nanjing University professor and founder of the China New Democracy Party, published articles criticizing the country's one-party system. One of the CDP's founders, Qin Yongmin, who was imprisoned in 1998, remained in prison, as did others connected with a 2002 open letter calling for political reform and reappraisal of the 1989 Tiananmen uprising. More

than 30 current or former CDP members reportedly remained imprisoned or held in RTL camps, including Chen Shuqing, Sang Jiancheng, He Depu, Yang Tianshui, and Jiang Lijun. In January CDP member Wang Rongqing was sentenced to six years' imprisonment for "subversion against the state" after publishing articles critical of the political system. In August CDP member Zhang Lin was released from prison.

The government placed no special restrictions on the participation of women or minority groups in the political process. However, women held few positions of significant influence in the CCP or government structure. There was one female member of the CCP's 25-member Politburo, who also concurrently served as one of five state councilors. Women headed three of the country's 27 ministries.

The government encouraged women to exercise their right to vote in village committee elections and to run in those elections, although only a small fraction of elected members were women. In many locations a seat on the village committee was reserved for a woman, usually given responsibility for family planning.

Minorities, who made up approximately 8.4 percent of the population, constituted 13.9 percent of the 10th NPC. All of the country's officially recognized minority groups were represented in the NPC membership. The 17th Communist Party Congress elected 40 members of ethnic minority groups as members or alternates on the Central Committee. The only ministerial-level post held by an ethnic minority member was in the Commission of Ethnic Affairs, headed by Yang Jing, a Mongol from Inner Mongolia. In addition, there was one ethnic minority member, Vice Premier Hui Liangyu, of the Hui ethnic group, on the Politburo. Minorities held few senior party or government positions of significant influence.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. Many cases of corruption involved areas that were heavily regulated by the government and therefore susceptible to fraud, bribery, and kickbacks, such as land usage rights, real estate, and infrastructure development.

In the first six months of the year, the SPP reported that 9,158 corrupt officials were found guilty of offenses including embezzlement, bribery, dereliction of duty, and rights violations. The party's Central Commission for Discipline Inspection (CCDI) reported that 106,000 members had been found guilty of corruption during the year, an increase of 2.5 percent over 2008. Of these, 85,353 received "party discipline" punishment and 29,718 received "administrative punishment."

Party leaders announced new measures to combat corruption at key meetings, such as CCDI's annual conference on corruption in January and the State Council's Second Work Conference on Building a Clean Government in March. In addition, countering corruption, especially monitoring funds spent on earthquake relief and in the massive stimulus package, was a key theme during the NPC's March session. In April the party began running 45 new anticorruption public service announcements in print, radio, and television outlets across the country. For the first time ever, in May more than 2,000 secretaries of county-level discipline organs were summoned to Beijing for a "focused training course" run by the CDIC. The government also set up a Web site to allow the central government to directly receive accounts of corrupt officials.

Numerous leaders of state owned enterprises, who generally also hold high party rank, were investigated for corruption during the year, including China National Nuclear Corporation General Manager Kang Rixin; China Development Bank Vice President Wang Yi, who was expelled from the party; China Mobile Vice Chairman Zhang Chunjiang; and Sinopec former Vice Chairman Chen Tonghai, who was sentenced to death—with a two-year suspension—for corruption. In November 2008 Huang Guangyu, the founder of Gome Electrical Appliance Holding and the country's richest man, was detained on unspecified charges of "economic crimes," along with numerous government officials, including the following: Chen Shaoji, the chairman of the CPPCC's Guangdong Provincial Committee; Wang Huayuan, who was the highest-ranking anticorruption official in Zhejiang Province; Zheng Shaodong, the assistant minister of public security of Guangdong and head of that ministry's economic crimes investigation bureau; and his chief deputy, Xiang Huaizhu. Shenzhen mayor Xu Zongheng was dismissed in relation to this case and remained under investigation.

The Ministry of Supervision and the CCDI are responsible for combating government corruption.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The government sought to maintain control over civil society groups, halt the emergence of independent NGOs, hinder the activities of civil society and rights' activist groups, and prevent what it has called the "westernization" of the country. The government did not permit independent domestic NGOs to monitor openly or to comment on human rights conditions; in addition, domestic NGOs were harassed. The government tended to be suspicious of independent organizations and increased scrutiny of NGOs with financial and other links overseas. Most large NGOs were quasigovernmental, and all official NGOs had to be sponsored by government agencies. Some grassroots NGOs registered as companies to avoid regulations requiring NGOs to have a sponsoring government agency.

An informal network of activists around the country continued to serve as a credible source of information about human rights violations. The information was disseminated through organizations such as the Hong Kong-based Information Center for Human Rights and Democracy, the foreign-based Human Rights in China, and via the Internet.

The government remained reluctant to accept criticism of its human rights record by other nations or international organizations. It criticized reports by international human rights monitoring groups, claiming that such reports were inaccurate and interfered with the country's internal affairs. Representatives of some international human rights organizations reported that authorities denied their visa requests or restricted the length of visas issued to them.

The government did not have a human rights ombudsman or commission. The government-established China Society for Human Rights is an NGO whose mandate is to defend the government's human rights record. The government maintained that each country's economic, social, cultural, and historical conditions influence its approach to human rights.

The ICRC operated an office in Beijing, but the government did not authorize the ICRC to visit prisons. The government continued unofficial discussions on human rights and prisoner issues with a foreign-based human rights group, although the government's cooperation with the group was not as extensive as in previous years.

The government continued to participate in official diplomatic human-rights dialogues with foreign governments.

Section 6. Discrimination, Societal Abuse, and Trafficking in Persons

There were laws designed to protect women, children, persons with disabilities, and minorities. However, some discrimination based on ethnicity, gender, and disability persisted.

Women.—Rape is illegal, and some persons convicted of rape were executed. The law does not recognize expressly or exclude spousal rape. The government has not made available official statistics on rape or sexual assault, leaving the scale of sexual violence difficult to determine. Migrant female workers were particularly vulnerable to sexual violence. Deng Yujiao was found "guilty of intent to harm" but was not sentenced to prison after she stabbed a local official to death when he reportedly attempted to sexually assault her. The All-China Women's Federation (ACWF) advocated for "fair treatment" of Deng during the trials. Deng Yujiao was released after her trial on June 17.

Violence against women remained a significant problem. According to a 2008 survey by the ACWF, domestic violence affected one-third of China's 267 million families. The government supported shelters for victims of domestic violence, and some courts were beginning to provide protections to victims. However, official assistance did not always reach such victims, and public security forces often ignored situations of domestic violence. According to reports, 30 to 37 percent of families suffered from domestic violence, and more than 90 percent of the victims were women. The ACWF reported that it received 50,000 domestic violence complaints annually. Spousal abuse typically went unreported; an ACWF study found that only 7 percent of rural women who suffered domestic violence sought help from police. While domestic violence tended to be more prevalent in rural areas, it also took place among the highly educated urban population. The ACWF reported that approximately one-quarter of the 400,000 divorces registered each year were the result of family violence.

The number of victims' shelters grew. According to ACWF statistics, in 2008 there were 27,000 legal-aid service centers, 12,000 special police booths for domestic violence complaints, 400 shelters for victims of domestic violence, and 350 examination centers for women claiming to be injured by domestic violence nationwide. Most shelters were operated by the government, some with NGO participation.

Both the Marriage Law and the Law on the Protection of Women's Rights and Interests have stipulations that directly prohibit domestic violence; however, some experts complained that the stipulations are too general, fail to define domestic violence, and are difficult to implement. Because of the judicial standard of ruling out "all unreasonable doubt," even if a judge was certain that domestic violence was occurring, he or she could not rule against the abuser without the abuser's confession. Only 10 percent of accused abusers confessed to violent behavior in the family, according to 2009 data from the Institute of Applied Laws, a think tank associated with the court system. Collecting evidence in domestic violence cases remained difficult: the institute reported that 40 to 60 percent of marriage and family cases involved domestic violence; however, less than 30 percent were able to supply indirect evidence, including photographs, hospital records, police records, or children's testimony. Witnesses seldom testified in court.

In April the Hunan High People's Court reportedly issued the first provincial-level guiding opinion concerning domestic violence cases, which was aimed at strengthening protections for female victims during judicial proceedings related to such abuse. In June a district court in Zhejiang Province granted the province's first antidomestic-violence court order to a female victim. Following similar 2008 orders in Jiangsu and Hunan, the order prohibits the abuser from intimidating or beating the spouse and opens the way for security forces to intervene to protect the victim's safety.

Although prostitution is illegal, experts estimated that between 1.7 million and 6 million women were involved in prostitution in the country. According to MPS statistics, police investigated approximately 140,000 cases of prostitution annually. During the year the MPS launched a three-month crackdown on organized prostitution targeting individuals or groups who force, tempt, permit, or introduce women to prostitution; operators of entertainment venues that permit or introduce prostitution; and anyone who conducts illegal activities with minors. July MPS statistics reported that police arrested 3,311 suspects who allegedly forced, abetted, harbored, or introduced women to prostitution and solved 2,503 cases related to prostitution, including 363 cases involving minors. A total of 457 criminal gangs were broken, and another 40 suspects were arrested for underage sex offenses.

Despite official accounts of efforts to crack down on the sex trade, media reports claimed that some local officials were complicit in prostitution, owned prostitution venues, or received proceeds from such businesses. Media reports also claimed prostitution involved organized crime groups and businesspersons as well as the police and military. Social workers reported that high-profile entertainment centers that had powerful, behind-the-scenes supporters were beyond the reach of public security bureaus.

After the Law on the Protection of Women's Rights was amended in 2005 to include a ban on sexual harassment, the number of sexual harassment complaints increased significantly.

The government restricted the rights of parents to choose the number of children they have. The national family-planning authorities shifted their emphasis from lowering fertility rates to maintaining low fertility rates and emphasized quality of care in family-planning practices; however, the country's birth limitation policies retained harshly coercive elements in law and practice. The financial and administrative penalties for unauthorized births are strict. Although some officials suggested that adjustments to the policy were needed to address the problem of an unequal sex ratio at birth, the government continued to affirm the orientation of its family-planning policy at the highest levels. There was no information on whether women and men had equal access to diagnosis and treatment for sexually transmitted infections, including HIV.

The 2002 National Population and Family-planning Law standardizes the implementation of the government's birth limitation policies; however, enforcement varied significantly. The law grants married couples the right to have one birth and allows eligible couples to apply for permission to have a second child if they meet conditions stipulated in local and provincial regulations. The one-child limit was more strictly applied in urban areas, where only couples meeting certain conditions are permitted to have a second child. In most rural areas, the policy was more relaxed, with couples permitted to have a second child in cases where the first child was a girl. Countrywide, 35 percent of families fell under the one-child restrictions, and more than 60 percent of families were eligible to have a second child, either outright or if they met certain criteria. The remaining 5 percent were eligible to have more than two children.

While all provinces eliminated the birth-approval process for a first child, thus allowing parents to choose when to start having children, some provinces continued to regulate the period of time required between births.

The law requires each person in a couple that has an unapproved child to pay a "social compensation fee," which can reach 10 times a person's annual disposable income. The law grants preferential treatment to couples who abide by the birth limits.

Social compensation fees were set and assessed at the local level. The law requires family-planning officials to obtain court approval before taking "forcible" action, such as detaining family members or confiscating and destroying property of families who refuse to pay social compensation fees. However, in practice this requirement was not always followed, and national authorities remained ineffective at reducing abuses by local officials.

The population control policy relied on education, propaganda, and economic incentives, as well as on more-coercive measures. Those who violated the child limit policy by having an unapproved child or helping another do so faced disciplinary measures such as social compensation fees, job loss or demotion, loss of promotion opportunity, expulsion from the party (membership is an unofficial requirement for certain jobs), and other administrative punishments, including in some cases the destruction of private property.

In order to delay childbearing, the law sets the minimum marriage age for women at 20 years and for men at 22 years. It continued to be illegal in almost all provinces for a single woman to have a child. Hunan Province required individuals conceiving children out of wedlock to pay 6 to 8 percent of their income from the previous year in addition to the standard social compensation fee. The law states that family-planning bureaus will conduct pregnancy tests on married women and provide them with unspecified "follow-up" services. Some provinces fined women who did not undergo periodic pregnancy tests. For example, in Hebei Province fines ranged from RMB 200 to RMB 500 (approximately \$30 to \$70), and in Henan Province fines ranged from RMB 50 to RMB 500 (\$7 to \$70).

Officials at all levels remained subject to rewards or penalties based on meeting the population goals set by their administrative region. Promotions for local officials depended in part on meeting population targets. Linking job promotion with an official's ability to meet or exceed such targets provided a powerful structural incentive for officials to employ coercive measures to meet population goals.

Although the family-planning law states that officials should not violate citizens' rights in the enforcement of family-planning policy, these rights, as well as penalties for violating them, are not clearly defined. By law citizens may sue officials who exceed their authority in implementing birth-planning policy. However, there exist few protections for whistleblowers against retaliation from local officials. The law provides significant and detailed sanctions for officials who help persons evade the birth limitations.

On October 1, a new set of national family-planning regulations for the migrant population became effective. The new regulations make family-planning services, including reproductive health information and services, contraception devices, and family-planning technical services, available and free to migrants in their temporary residences. Previously, migrants were often forced to return to the place of their legal household registrations to receive services.

The constitution states that "women enjoy equal rights with men in all spheres of life." The Law on the Protection of Women's Rights and Interests provides for equality in ownership of property, inheritance rights, and access to education. The ACWF was the leading implementer of women's policy for the government, and the State Council's National Working Committee on Children and Women coordinated women's policy. Nonetheless, many activists and observers were concerned that the progress made by women over the past 50 years was eroding. They asserted that the government appeared to have made the pursuit of gender equality a secondary priority as it focused on economic reform and political stability. Women continued to report that discrimination, sexual harassment, unfair dismissal, demotion, and wage discrepancies were significant problems.

Authorities often did not enforce laws protecting the rights of women. According to legal experts, it was difficult to litigate a sex discrimination suit because the vague legal definition made it difficult to quantify damages, so very few cases were brought to court. Some observers noted that the agencies tasked with protecting women's rights tended to focus on maternity-related benefits and wrongful termination during maternity leave rather than on sex discrimination, violence against women, and sexual harassment. Women's rights advocates indicated that in rural areas women often forfeited land and property rights to their husbands in divorce proceedings. In principle rural contract law and laws protecting women's rights stipulate that women enjoy equal rights in cases of land management, but experts argued that in practice this was rarely the case, due to the complexity of the law and difficulties in its implementation.

Many employers preferred to hire men to avoid the expense of maternity leave and child care, and some lowered the effective retirement age for female workers to 40 (the official retirement age for men was 60 and for women 55, with the exception of men and women involved in physically demanding jobs, for which the retirement age was 55 and 45, respectively). In addition, work units were allowed to impose an earlier mandatory retirement age for women than for men. Lower retirement ages also reduced pensions, which generally were based on the number of years worked. Job advertisements sometimes specified height and age requirements for women.

Women had less earning power than men, despite government policies mandating nondiscrimination in employment and occupation. The Ministry of Human Resources and Social Security and the local labor bureaus were responsible for ensuring that enterprises complied with the labor law and the employment promotion law, each of which contains antidiscrimination provisions.

A high female suicide rate continued to be a serious problem. According to the World Bank and the World Health Organization, there were approximately 500 female suicides per day. The Beijing Psychological Crisis Study and Prevention Center reported that the suicide rate for females was three times higher than for males. Many observers believed that violence against women and girls, discrimination in education and employment, the traditional preference for male children, birth-limitation policies, and other societal factors contributed to the high female suicide rate. Women in rural areas, where the suicide rate for women was three to four times higher than for men, were especially vulnerable.

The Law on the Protection of Juveniles forbids infanticide; however, there was evidence that the practice continued. According to the National Population and Family-planning Commission, a handful of doctors have been charged with infanticide under this law. Female infanticide, sex-selective abortions, and the abandonment and neglect of baby girls remained problems due to the traditional preference for sons and the coercive birth limitation policy.

The UN Economic and Social Council reported that less than 2 percent of women between the ages of 15 and 24 were illiterate. According to 2008 official government statistics, women comprised more than 70 percent of all illiterate persons above the age of 15. In some underdeveloped regions, the female literacy rate lagged behind the male literacy rate by 15 percent or more.

While the gap in the education levels of men and women narrowed, differences in educational attainment remained a problem. Men continued to be overrepresented among the relatively small number of persons who received a university-level education. According to Ministry of Education statistics, in 2008 women accounted for 50 percent of undergraduate and college students, 46 percent of postgraduate students, and nearly 35 percent of doctoral students. Women with advanced degrees reported discrimination in the hiring process as the job distribution system became more competitive and market-driven.

Children.—Citizenship is derived from the parents. Parents must register their children in compliance with the national household registration system within one month of birth. Children not registered cannot access public services. No data was available on the number of unregistered births.

The law provides for nine years of compulsory education for children. However, in economically disadvantaged rural areas, many children did not attend school for the required period and some never attended at all. Public schools were not allowed to charge tuition; however, faced with insufficient local and central government funding, many schools continued to charge miscellaneous fees. Such fees and other school-related expenses made it difficult for poorer families and some migrant workers to send their children to school.

The proportion of girls attending school in rural and minority areas was reportedly smaller than in cities; in rural areas 61 percent of boys and 43 percent of girls completed education higher than lower middle school. The government reported that nearly 20 million children of migrant laborers followed their parents to urban areas. Most children of migrant workers who attended school did so at schools that were unlicensed and poorly equipped.

Female babies suffered from a higher mortality rate than male babies, contrary to the worldwide norm. State media reported that infant mortality rates in rural areas were 27 percent higher for girls than boys and that neglect was one factor in their lower survival rate.

Kidnapping and buying and selling children for adoption increased over the past several years, particularly in poor rural areas. There were no reliable estimates of the number of children trafficked; however, according to media reports, as many as 20,000 children were kidnapped every year for illegal adoption. Most children trafficked internally were sold to couples unable to have children, particularly sons.

Those convicted of buying an abducted child may be sentenced to three years' imprisonment. In the past most children rescued were boys, but increased demand for children reportedly drove traffickers to focus on girls as well.

By law those who force young girls (under age 14) into prostitution may be sentenced to 10 years or more in prison or given a life sentence, in addition to a fine or confiscation of property. If the case is especially serious, they are to be given a life sentence or sentenced to death, in addition to confiscation of property. Those inducing young girls (under age 14) into prostitution are to be sentenced to five years or more in prison in addition to a fine. Those who visit young girl prostitutes (under age 14) are to be sentenced to five years or more in prison in addition to paying a fine.

According to the law, the minimum age of consensual sex is 14.

Pornography of any kind is illegal, including child pornography. Under the criminal code, those producing, reproducing, publishing, selling, or disseminating obscene materials with the purpose of making a profit may be sentenced up to three years in prison or put under criminal detention or surveillance, in addition to paying a fine. If the case is serious, they are to be sentenced from three to 10 years in prison, in addition to paying a fine. If the case is especially serious, they are to be sentenced to 10 years or more in prison or given a life sentence, in addition to a fine or confiscation of property. Persons found disseminating obscene books, magazines, films, audio or video products, pictures, or other kinds of obscene materials, if the case is serious, may be sentenced up to two years in prison or put under criminal detention or surveillance. Persons organizing the broadcast of obscene motion pictures or other audio or video products may be sentenced up to three years in prison or put under criminal detention or surveillance, in addition to paying a fine. If the case is serious, they are to be sentenced to three to 10 years in prison in addition to paying a fine.

Those broadcasting or showing obscene materials to minors less than 18 years of age are to be severely punished.

There were more than 150,000 urban street children, according to state-run media and the Ministry of Civil Affairs. This number was even higher if the children of migrant workers who spend the day on the streets were included. In August 2008 state media reported that the number of children in rural areas left behind by their migrant worker parents totaled 5.8 million.

The law forbids the mistreatment or abandonment of children. The vast majority of children in orphanages were girls, many of whom were abandoned. Boys in orphanages were usually disabled or in poor health. Medical professionals sometimes advised parents of children with disabilities to put the children into orphanages.

The government denied that children in orphanages were mistreated or refused medical care but acknowledged that the system often was unable to provide adequately for some children, particularly those with serious medical problems. Adopted children were counted under the birth limitation regulations in most locations. As a result, couples that adopted abandoned infant girls were sometimes barred from having additional children.

Trafficking in Persons.—The law prohibits trafficking in women and children; however, there were reports that men, women, and children were trafficked to, from, through, and within the country for sexual exploitation and forced labor. Criminal law defines trafficking as purposefully selling women or children to make a profit, through abduction, kidnapping, buying, trading, or transporting.

The government built on past efforts to combat trafficking, modifying countertrafficking regulations to strengthen the government's response to sex and labor trafficking, and conducting significant and new campaigns to prosecute traffickers and rescue trafficking victims. The MPS and 30 other government departments and agencies jointly issued National Plan of Action (NPA) implementation guidelines to restructure government antitrafficking work processes, assign responsibilities, and coordinate intragovernment cooperation. The SPP issued guidelines for prosecuting human trafficking cases. The central government changed local security officials' promotion criteria to include countertrafficking work and instructed public security bureaus nationwide to immediately investigate missing person or trafficking cases as criminal cases.

In April the MPS initiated a new campaign to combat trafficking in women and children. From April to December, the MPS reported rescuing nearly 3,500 children and 7,400 women trafficking victims, breaking up 1,684 criminal gangs in the process. Through the use of a DNA matching database, the identities of 298 trafficked persons have been confirmed. During the year prosecution and conviction of trafficking offenders increased, mostly focused on those trafficking women and children. Authorities investigated and dismantled criminal networks and organized crime syndicates involved in trafficking and by December had arrested 19 of the country's

20 most-wanted human traffickers; they were awaiting prosecution at year's end. The government recognized the need to do more to provide services to trafficking victims. The government increased antitrafficking cooperation with other countries and international organizations and worked to raise public awareness on trafficking in persons. However, the country's capacity to effectively protect victims and prevent trafficking in persons did not reach international standards.

The country was a source, transit point, and destination for trafficking in persons. The vast majority of trafficking was internal for the purposes of sexual exploitation, forced labor and begging, and forced marriage. Women and children, who made up 90 percent of reported trafficking cases, were often trafficked from poorer, rural areas where they were abducted or lured to urban centers with false promises of employment and then trafficked into prostitution or forced labor. The media and NGOs estimated that between 10,000 and 20,000 were trafficked internally annually.

Domestic and cross-border trafficking continued to be significant problems, although the exact number of persons involved could only be estimated, due in part to an itinerant population of approximately 150 million. The MPS reported 2,500 cross-border trafficking cases in 2008, although experts claimed the number was much higher.

The government reported strengthening its prosecution of trafficking. In April Hebei Provincial Higher People's Court sentenced two persons to death and nine others to various sentences, ranging from four years in prison to the death penalty with a reprieve, for a series of child-trafficking cases involving seven children across Henan, Hebei, and Shandong provinces. Also in April police detained two persons suspected of trying to traffic 300 youths to Costa Rica.

In May Guizhou authorities launched a campaign to crack down on the forced prostitution of girls following a scandal in which 11 Xishui County schoolgirls were forced into the sex trade. The campaign, which lasted until the end of the year, also targeted those who force minors to beg or commit crimes. In June state media reported that police rescued 23 children during a crackdown on child trafficking. State media reported the Wuhan Rail Bureau apprehended 18 suspects in an eight-day campaign targeting trains arriving from Kunming, Yunnan Province. In August the government repatriated six trafficked Burmese women following a joint operation by Chinese and Burmese security forces.

Some experts and NGOs suggested that trafficking of persons was fueled by economic disparity and the effects of population-planning policies and that a shortage of marriageable women increased the demand for abducted women, especially in rural areas. The serious imbalance in the male-female ratio at birth, the tendency for women to leave rural areas to seek employment, and the cost of traditional betrothal gifts all made purchasing a wife attractive to some poor rural men. Some men recruited women from poorer regions, while others sought help from criminal gangs. UN research indicated most women trafficked internally were taken from areas with a very low GDP to areas with a very high GDP. Once in their new "families," these women were "married" and sometimes became victims of forced labor or rape. Some joined their new communities, others struggled and were punished, and a few escaped. Some former trafficking victims became traffickers themselves, lured by the prospect of financial gain.

Most cross-border trafficked women and girls came from Vietnam, Burma, North Korea, Mongolia, and Russia. Others came from Laos and Ukraine. All were trafficked into the country for sexual exploitation, forced marriage, and indentured servitude in domestic service or businesses. Many North Korean women and girls were trafficked into the country to work in the sex industry and for forced marriages and other purposes, including forced labor. Because the government continued to classify all North Korean trafficking victims as economic migrants, they were routinely deported. North Korean women reportedly were sold for RMB 2,900 to RMB 9,700 (approximately \$425 to \$1,420). The UN reported that Chinese citizens were most often trafficked to Malaysia, Thailand, the United Kingdom, and the United States. Second-tier destinations included Australia, European countries, Canada, Japan, Burma, Singapore, South Africa, and Taiwan.

Trafficked persons sometimes became entangled with alien smuggling rings, which often had ties to organized crime and were international in scope. Persons trafficked by alien smugglers paid high prices for their passage to other countries, where they hoped their economic prospects would improve. Some reportedly promised to pay RMB 231,000 to RMB 385,000 (approximately \$33,790 to \$56,320) for passage. Upon arrival many reportedly were forced to repay traffickers for the smuggling charges or a larger amount at high interest rates, and in some cases in addition to their living expenses by working for a set period of time. Living and working conditions for trafficked persons were poor. Traffickers restricted their vic-

tims' movements and confiscated their travel documents. Threats to report trafficking victims to authorities or to retaliate against families made trafficked persons even more vulnerable.

Criminal law prohibited trafficking, kidnapping, and sexual exploitation of minors. Persons convicted of engendering forced prostitution, abduction, or commercial exploitation face criminal sanctions; convictions for trafficking minors carry heavier sentences, such as a death sentence. Victims and their families can bring civil suits against offenders, but few civil suits made it beyond initial stages. Those that did encountered obstacles claiming compensation.

In April more than 100 parents in Guangdong Province protested the authorities' poor response to the alleged abduction of more than 1,000 children from the area over the past two years. During the year the government began to address child abduction and trafficking through stepped-up investigations and informational campaigns, sponsoring workshops for migrant worker parents on the dangers of child trafficking, meeting with parent and civic groups, and establishing a nation-wide DNA database to reunite rescued children with their families.

NGOs reported an increase in child trafficking and children forced to work as beggars, petty thieves, and prostitutes, especially in rural areas. Some children, including Uighurs, worked in factories, but many ended up under the control of local gangs. Five ministries on the State Council issued regulations during the year imposing obligations on government officials to combat child trafficking, particularly for purposes of forced begging; nevertheless, experts noted that forced child labor and sexual exploitation continued to be serious problems in many cities.

MPS officials stated that repatriated victims of trafficking no longer faced fines or other punishment upon their return. However, authorities acknowledged that some victims continued to be sentenced or fined because of corruption among police, the difficulty in identifying trafficked victims, and provisions allowing for the imposition of fines on persons traveling without proper documentation. Trafficking victims often lacked proper identification, which made it difficult to distinguish them from persons who illegally crossed borders. The MPS trained border officials to spot potential victims of trafficking, and it opened seven border liaison offices on the Burma, Laos, and Vietnam borders to process victims. However, the ACWF reported that ongoing problems required intervention to protect trafficking victims from unjust punishment.

Trafficking victims often were returned to their homes without access to counseling or psychological care; however, in areas where trafficking in persons was prevalent, there was evidence that local and security officials worked with NGOs to provide victims access to medical services and counseling. Some NGOs provided victims with counseling or psychological care. The government's victim assistance efforts across the country remained uncoordinated, underdeveloped, and insufficient, although it took steps to rectify this problem through training and capacity-building programs in conjunction with international NGOs. Trafficking victims returning to China from abroad, for example, rarely received assistance from authorities, who largely were unaware of the victims and their plight. The government did not provide any assistance to Chinese sex-trafficking victims identified in Ghana, who faced threats and retaliation from their traffickers.

The law criminalizing the purchase of women makes abduction and sale separate offenses. There were reports of local officials' complicity in both alien smuggling and in prostitution, which sometimes involved trafficked women. In some cases village leaders sought to prevent police from rescuing women who had been sold to villagers. Authorities did not take sufficient steps to deter or prevent trafficking-related corruption in the country.

The government continued to centralize and institutionalize its antitrafficking work. The 2007 NPA on Combating Trafficking of Women and Children formalized cooperation among government agencies and established a national information and reporting system. However, there were no measures for resources to be allocated to local and provincial governments for implementation. Additionally, the NPA covered only trafficking of female and minor victims and did not address labor trafficking or male victims of sex trafficking. During the year implementation procedures and regulations were formulated by 30 ministries and government entities. While all provinces under the NPA are required to create provincial-level plans to combat trafficking, by the end of the year only a handful of provinces had created and were actively implementing such plans. The government continued to make some progress in strengthening its antitrafficking legal framework; the highest court issued instructions on prosecuting traffickers.

The MPS reported that its primary focus in implementing the NPA was to guarantee that provincial government and local public security bureaus took on antitrafficking work and that the local antitrafficking procedures were correct. The

MPS issued regulations to standardize local public security officials' antitrafficking methods and for the first time tied security official's professional advancement to their efforts to assist antitrafficking work. The MPS also launched its sixth special campaign to combat trafficking in women and children. The campaign's mandate was to reduce trafficking in women and children by solving a large number of trafficking cases, rescuing victims, eliminating a large number of trafficking gangs, and apprehending a large number of traffickers.

Principal government agencies responsible for combating trafficking or assisting its victims were the MPS, the State Council's Work Committee for Women and Children, the Ministry of Civil Affairs (MCA), and the ACWF. While the government made increased efforts to assist victims of trafficking, the protection, return, and reintegration of trafficking victims needed greater improvement. Central government policy allows for provision of funds to provincial governments and local police to house victims and return them to their homes, although it remained unknown whether this resource was used. Government-funded women's federation offices and other women's organizations provided some counseling on legal rights, rehabilitation, and other assistance to trafficking victims, although lack of funding reportedly limited services in many areas.

The ACWF assisted some victims in obtaining medical and psychological treatment. Overseas NGOs provided treatment to trafficking victims and conducted educational outreach programs to educate rural youth about the dangers of trafficking. The government and NGOs also supported centers in communities with large numbers of migrant laborers to train members of at-risk groups to avoid being trafficked and to get out of trafficking situations. The MCA began training staff at the 1,351 MCA relief centers for disadvantaged persons nationwide in identifying and providing services to trafficking victims. However, the country continued to lack comprehensive, countrywide victim protection services. Anecdotal evidence suggested that trafficking victims residing in provinces that lacked a large trafficking problem—and therefore a robust antitrafficking program—had difficulty accessing assistance and services.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The law protects the rights of persons with disabilities and prohibits discrimination; however, conditions for such persons lagged far behind legal dictates, failing to provide persons with disabilities access to programs designed to assist them.

The MCA and the China Disabled Persons Federation, a government-organized civil association, were the main entities responsible for persons with disabilities. In September government officials confirmed that there were 83 million persons with disabilities living in the country. According to government statistics, in 2008 there were 3,731 vocational education and training facilities, which provided training and job-placement services for 774,000 persons with disabilities. More than 4.5 million persons with disabilities were employed in cities and towns; 17.2 million were employed in rural areas. Government statistics stated that 7.4 million persons with disabilities enjoyed the minimum life guarantee; nearly three million had social insurance.

The law prohibits discrimination against minors with disabilities and codifies a variety of judicial protections for juvenile offenders. In 2007 the Ministry of Education reported that nationwide there were 1,618 schools for children with disabilities. According to NGOs, there were approximately 20 million children with disabilities, only 2 percent of whom had access to special education that could meet their needs. In 2008 there were 63,400 new enrollments, bringing the total number of children with disabilities at school to 419,000. NGOs claimed that while the overall school enrollment rate was 99 percent, only 75 percent of children with disabilities were enrolled in school. Nationwide 243,000 school-age children with disabilities did not attend school. Nearly 100,000 organizations existed, mostly in urban areas, to serve those with disabilities and protect their legal rights. The government, at times in conjunction with NGOs, sponsored programs to integrate persons with disabilities into society.

The physical abuse of children can be grounds for criminal prosecution. However, misdiagnosis, inadequate medical care, stigmatization, and abandonment remained common problems. According to reports, doctors frequently persuaded parents of children with disabilities to place their children in large government-run institutions, where care was often inadequate. Those parents who chose to keep children with disabilities at home generally faced difficulty finding adequate medical care, day care, and education for their children. Government statistics showed that almost one-quarter of persons with disabilities lived in extreme poverty.

Unemployment among adults with disabilities remained a serious problem. Under the Employment Promotion Law, local governments were required to offer incentives to enterprises that hired persons with disabilities. Regulations in some parts of the country also required employers to pay into a national fund for the disabled when the employees with disabilities did not make up the statutory minimum percentage of the total workforce.

Standards adopted for making roads and buildings accessible to persons with disabilities were subject to the Law on the Handicapped, which calls for their "gradual" implementation; however, compliance with the law was lax. Students with disabilities were discriminated against in access to education. The law permits universities legally to exclude otherwise qualified candidates from higher education.

The law forbids the marriage of persons with certain acute mental illnesses, such as schizophrenia. If doctors find that a couple is at risk of transmitting disabling congenital defects to their children, the couple may marry only if they agree to use birth control or undergo sterilization. The law stipulates that local governments must employ such practices to raise the percentage of healthy births.

National/Racial/Ethnic Minorities.—Most minority groups resided in areas they traditionally inhabited. Government policy calls for members of recognized minorities to receive preferential treatment in birth planning, university admission, access to loans, and employment. However, the substance and implementation of ethnic minority policies remained poor, and discrimination against minorities remained widespread.

Minority groups in border and other regions had less access to education than their Han counterparts, faced job discrimination in favor of Han migrants, and earned incomes well below those in other parts of the country. Government development programs often disrupted traditional living patterns of minority groups and included, in some cases, the forced relocation of persons. Han Chinese benefited disproportionately from government programs and economic growth. As part of its emphasis on building a "harmonious society," the government downplayed racism against minorities, which remained the source of deep resentment in the XUAR, Inner Mongolia Autonomous Region, and Tibetan areas. In September the State Council issued a white paper on ethnic policy, common prosperity, and development of all ethnic groups. The report stated that the country's ethnic policy ensured the equality among all ethnic groups.

According to 2007 government statistics, 36.3 percent of Guangxi Province's cadres were ethnic minorities. In 2008 all five of the country's ethnic minority autonomous regions had governors from minority groups for the first time in history. However, the Communist Party secretaries of these five autonomous regions were all Han. Han officials continued to hold the majority of the most powerful party and government positions in minority autonomous regions, particularly the XUAR.

The government's policy to encourage Han Chinese migration to move into minority areas significantly increased the population of Han in the XUAR. In recent decades the Han-Uighur ratio in the capital of Urumqi has shifted from 20 to 80 to 80 to 20 and continued to be a deep source of Uighur resentment. Discriminatory hiring practices gave preference to Han and discouraged job prospects for ethnic minorities. According to 2005 statistics published by XUAR officials, eight million of the XUAR's 20 million official residents were Han. Hui, Kazakh, Kyrgyz, Uighur, and other ethnic minorities comprised approximately 12 million XUAR residents. Official statistics understated the Han population, because they did not count the tens of thousands of Han Chinese who were long-term "temporary workers." While the government continued to promote Han migration into the XUAR and fill local jobs with migrant labor, overseas human rights organizations reported that local officials under direction from higher levels of government deceived and pressured young Uighur women to participate in a government-sponsored labor transfer program.

The XUAR government took measures to dilute expressions of Uighur identity, including measures to reduce education in ethnic minority languages in XUAR schools and to institute language requirements that disadvantaged ethnic minority teachers. The government continued to apply policies that prioritized Mandarin Chinese for instruction in school, thereby reducing or eliminating ethnic-language instruction. Graduates of minority language schools typically needed intensive Chinese study before they could handle Chinese-language course work at a university. The dominant position of standard Chinese in government, commerce, and academia put graduates of minority-language schools who lacked standard Chinese proficiency at a disadvantage.

During the year authorities increased repression in the XUAR and targeted the region's ethnic Uighur population. On July 5, a Uighur demonstration was forcefully suppressed by police, and outbreaks in violence throughout the region following the

crackdown drew an international spotlight on longstanding ethnic tensions in the XUAR and Uighurs' grievances toward government policies that undermined the protection of their rights. In late 2008 and during the first half of the year, officials in XUAR reiterated a pledge to crack down on the government-designated "three forces" of religious extremism, "splittism," and terrorism and outlined efforts to launch a concentrated antiseperatist reeducation campaign.

It was sometimes difficult to determine whether raids, detentions, and judicial punishments directed at individuals or organizations suspected of promoting the "three forces" were instead actually used to target those peacefully seeking to express their political or religious views. The government continued to repress Uighurs expressing peaceful political dissent and independent Muslim religious leaders, often citing counterterrorism as the reason for taking action.

Uighurs were sentenced to long prison terms, and in some cases executed, on charges of separatism. The government reportedly sought the repatriation of Uighurs living outside the country, where they faced the risk of persecution.

Freedom of assembly was severely limited during the year in the XUAR. On September 8, the government announced it would demolish three buildings owned by the family of exiled Uighur leader Rebiya Kadeer, president of the World Uighur Conference. The government blamed Kadeer, a Uighur businesswoman in exile, for orchestrating the July 5 riots in Urumqi.

Possession of publications or audiovisual materials discussing independence or other sensitive subjects was not permitted. Uighurs who remained in prison at year's end for their peaceful expression of ideas the government found objectionable included Mehbube Ablesh, Abdulla Jamal, Tohti Tunyaz, Adduheil Zunun, Abdulghani Memetemin, and Nurmuhemmet Yasin.

During the year XUAR officials defended the campaign against separatism and other emergency measures taken as necessary to maintain public order and continued to use the threat of violence as justification for extreme security measures directed at the local population and visiting foreigners.

In September state media reported that XUAR authorities approved the Information Promotion Bill, making it a criminal offense to discuss separatism on the Internet and prohibiting use of the Internet in any way that undermines national unity. The bill further bans inciting ethnic separatism or harming social stability. The bill requires Internet service providers and network operators to set up monitoring systems or strengthen existing ones and report transgressions of the law.

Han control of the region's political and economic institutions also contributed to heightened tension. Although government policies brought economic improvements to the XUAR, Han residents received a disproportionate share of the benefits.

(See also the Tibet addendum.)

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—No laws criminalize private homosexual activity between consenting adults. Homosexuality was decriminalized in 1997 and removed from the official list of mental disorders in 2001. Due to societal discrimination and pressure to conform to family expectations, most gay individuals refrained from publicly discussing their sexual orientation.

On March 30 and April 3, approximately 50 gay men were reportedly detained in Renmin Park in Guangzhou and questioned by police. On August 25, police in Guangzhou tried again to remove a group of gay men from Renmin Park. The men refused, and after a nonviolent standoff, the police desisted.

In June the first gay pride festival took place in Shanghai. Also in June the Beijing Queer Film Festival was held. Police had blocked previous attempts to hold the festival.

Homosexual plotlines and scenes are not allowed on broadcast television. While there is no legal prohibition against the registration of lesbian, gay, bisexual, or transgender student groups, none were allowed to register at any universities.

In July a group of lesbians organized an online petition calling on the government to rescind a 1998 law banning gay persons from donating blood.

Other Societal Violence or Discrimination.—The Employment Promotion Law, which went into effect in 2008, improves protection against discrimination in employment, and local governments began modifying their regulations to reflect the new law. Under the law and adopted regulations, employment discrimination against persons carrying an infectious disease is prohibited, and provisions allow such persons to work as civil servants. While the law improves protection against discrimination in employment, it does not address some common types of discrimination in employment, including discrimination based on height, physical appearance, or place of origin.

Despite provisions in the new Employment Promotion Law, discrimination against persons with HIV/AIDS and hepatitis B carriers (including 20 million chronic carriers) remained widespread in many areas. Persons with HIV/AIDS suffered discrimination, and local governments sometimes tried to suppress their activities. At the same time, international involvement in HIV/AIDS prevention, care, and treatment, as well as central government pressure on local governments to respond appropriately, brought improvements in some localities. Some hospitals that previously refused to treat HIV/AIDS patients had active care and treatment programs because domestic and international training programs improved the understanding of local healthcare workers and their managers. In Beijing dozens of local community centers encouraged and facilitated HIV/AIDS support groups.

Some NGOs working with HIV/AIDS patients and their family members continued to report difficulties with local governments, particularly in Henan Province. Henan authorities provided free treatment to persons with HIV/AIDS, but foreign and local observers noted that local governments were reluctant or even hostile toward coordinating efforts with NGOs and preferred to work independently.

Section 7. Worker Rights

a. The Right of Association.—The law does not provide for freedom of association, as workers were not free to organize or join unions of their own choosing. Independent unions are illegal, and the right to strike is not protected in law.

The All-China Federation of Trade Unions (ACFTU), which is controlled by the CCP and chaired by a member of the Politburo, is the sole legal workers' organization. The trade union law gives the ACFTU control over all union organizations and activities, including enterprise-level unions, and requires the ACFTU to "uphold the leadership of the Communist Party." While ACFTU constituent unions were generally unassertive and ineffective in protecting the rights and interests of members, the ACFTU successfully advocated for and positively influenced the implementation of government policies protecting rights and interests of workers.

The ACFTU and its provincial and local branches continued to organize new unions at a rapid pace. According to the latest available ACFTU data, as of September 2008 there were 212 million ACFTU members, a net increase of 72.1 percent from 2003. The ACFTU claimed that 73.7 percent of workers were ACFTU members. The number of ACFTU-affiliated trade union organizations increased to 1.7 million by September 2008, up 9.8 percent over 2007 and up 90.4 percent over 2003. A total of 3.7 million enterprises established trade union organizations, up 15.3 percent over 2007 and up 133.9 percent over 2003. Additionally, the ACFTU continued its campaign to target foreign-invested enterprises and announced that by the end of 2008, the number of trade union members in foreign-invested enterprises across the country (including Hong Kong, Macau, and Taiwan-invested enterprises) had reached 15.9 million and the rate of unionization in such transnational corporations had reached 83 percent.

Twelve Taiwan employees in Xiamen became members of the Xiamen General Labor Union, officially joining the mainland ACFTU-affiliated labor union. This was the first time the ACFTU accepted Taiwan employees.

Although the law states that trade union officers at each level should be elected, most were appointed by ACFTU-affiliated unions, often in coordination with employers, and were drawn largely from the ranks of management. Direct election by workers of union leaders continued to be rare, occurred only at the enterprise level, and was subject to supervision by higher levels of the union or Communist Party organization. In enterprises where direct election of union officers took place, regional ACFTU offices and local party authorities retained control over the selection and approval of candidates.

While many labor rights NGOs and lawyers were able to operate effectively, authorities continued to monitor labor rights organizations closely. Labor rights organizations reported close surveillance by government security agencies, and in some cases they were warned to stop their activities in support of worker rights. During the year many groups reported an increase in monitoring in advance of sensitive anniversaries.

In some cases authorities interfered with the programs or activities of labor organizations. For example, in June trade union officials in Shaanxi Province reportedly threatened founders of a new workers' rights group. More than 380 workers from approximately 20 enterprises in Shaanxi applied to the provincial party committee and trade union federation to set up the Shaanxi Enterprise Union Rights Defense Representative Congress to supervise existing unions and resolve issues by creating more effective unions. The municipal government of Xi'an formally banned the group, and union officials threatened some of the application signatories.

In August local press reported that Zhao Dongming was arrested for applying to establish a trade union in Xian. In September, following the Tonghua Iron and Steel protests, Ren Fengyu was sentenced to RTL for 18 months for posting a notice at a factory demanding to select worker representatives.

In November labor NGOs reported that in Hubei Province, Yang Huanqing, a laid-off community-operated school teachers' representative, was sentenced to one year of RTL. The RTL notice received by Yang's family claimed that Yang organized teachers to petition, met with other teachers' representatives, and petitioned with other representatives.

Labor activists detained in previous years reportedly remained in detention at year's end, including Wang Sen, Ni Xiafei, Li Xintao, Hu Mingjun, Li Wangyang, Luo Huiquan, Kong Youping, Ning Xianhua, Li Jianfeng, Lin Shun'an, Chen Wei, She Wanbao, and Zhu Fangming.

The right to strike is not protected in law. While work stoppages are not expressly prohibited in law, article 53 of the constitution has been interpreted as a ban on labor strikes by obligating all citizens to "observe labor discipline and public order." Local government interpretations of the law varied, with some jurisdictions showing limited tolerance for strikes while others continued to treat worker protests as illegal demonstrations. Without a clearly defined right to strike, workers had only a limited capacity to influence the negotiation process.

During the year there were many reports of strikes or work stoppages throughout the country, and official media more aggressively publicized cases of worker rights violations and protests. The most publicized of these were three large-scale protests at state-owned enterprise (SOE) steel and coal plants in Jilin, Henan, and Hunan provinces. As a result of planned privatization of these SOEs, workers initiated large-scale strikes involving thousands of workers, one of which, in Jilin, resulted in the death of a manager. The privatization of the two steel SOEs was cancelled.

Official media also more aggressively publicized worker protests other than strikes, involving actual or feared job loss, wage or benefit arrears, dissatisfaction with new contracts offered in enterprise restructuring, failure to honor contract terms, or discontent over substandard conditions of employment. Representative examples of the countless number of worker protest actions that occurred included the following: taxi drivers in northeastern Mudanjiang City staged sit-ins before local party and government office buildings to protest the local government's plan to reform the taxi operating system; more than 400 motorcycle taxi drivers held a rally to protest a government ban on their business in Quanzhou, Fujian Province; hundreds of workers at a holding company of a foreign company in Wuhan City blocked a major road to protest potential job cuts; more than 5,000 taxi drivers in Xining, the capital of Qinghai Province, protested because of news that a new regulation would curtail the duration of their operating licenses; more than 400 workers blocked a road in a protest over unpaid wages in southwest China's Chongqing Municipality; and in Beijing more than 20 construction workers occupied a 17-floor block of apartments and demanded unpaid back wages. In November nearly 3,000 female workers of a German-invested company in Hainan Province went on strike to press their demands on bonuses, pay, and vacations.

On July 13, the SPC announced that labor disputes climbed by 30 percent in the first half of the year, with dramatic increases of 41.6 percent, 50.3 percent, and 159.6 percent in Guangdong, Jiangsu, and Zhejiang, respectively. Much of this increase was due to the continued implementation of the three new labor laws, workers' increased knowledge of their rights under these laws, and workers' increased willingness to pursue their rights by filing claims. An ACFTU official was quoted by the press as reporting that, by the end of November, in Beijing approximately 80,000 workers were involved in disputes with their employers, double the number from 2008. During the year Beijing's arbitration committee received more than 70,000 cases of labor disputes, compared with 49,000 during the same period in 2008 and 26,000 in 2007. In addition, Beijing's Second Intermediate People's Court reported that during the year labor dispute cases doubled compared with the previous year.

b. The Right to Organize and Bargain Collectively.—The labor law permits collective bargaining for workers in all types of enterprises; however, in practice collective bargaining fell short of international standards. Under labor and trade union laws, collective contracts are to be developed through collaboration between the labor union and management and should specify such matters as working conditions, wage scales, and hours of work.

The trade union law specifically addresses unions' responsibility to bargain collectively on behalf of workers' interests. Regulations required the union to gather input from workers prior to consultation with management and to submit collective con-

tracts to workers or their congress for approval. There is no legal obligation for employers to negotiate, and some employers refused to do so.

A key article of the 2008 labor contract law requires employers to consult with labor unions or employee representatives on matters that have a direct bearing on the immediate interests of their workers. Although the central government had not clarified the meaning of this article, some local jurisdictions interpreted it as a mandate for collective bargaining and reflected such an interpretation in local regulations on collective contract negotiations. In 2008 the ACFTU also called on its local organizations to carry out more aggressively their mandate to conclude collective contracts with employers.

The ACFTU reported that by September 2008, 1.1 million collective contracts were signed nationwide (an increase of 13.6 percent from 2007) covering 1.9 million enterprises (up 11.9 percent) and 149.6 million workers (16.6 percent). As of September 2008, 60.2 percent of the workers in enterprises throughout the country were covered by collective contracts. The ACFTU also engaged in a campaign to target transnational enterprises and noted as an example that collective contracts had been signed in Walmart's 108 unionized enterprises in the country.

The law provides for labor dispute resolution through a three-stage process: mediation between the parties, arbitration by officially designated arbitrators, and litigation. The 2008 labor dispute mediation and arbitration law improved workers' access to and streamlined this three-stage process. As noted above, the number of labor disputes nationwide rose significantly, which experts claimed was due in large part to an increase in workers' awareness of the laws and reduction in costs that a worker would incur in the process.

The trade union law provides specific legal remedies against antiunion discrimination and specifies that union representatives may not be transferred or terminated by enterprise management during their term of office. Collective contract regulations provide similar protections for employee representatives during collective consultations.

Workers and their advocates suffered harassment and intimidation from officials and from by criminal elements often hired by employers. For example, in January in Shenzhen Province, local press reported that a developer who owed a contractor a significant amount of money colluded with police to violently attack and prosecute 47 wage-seeking workers, who claimed that they had not received wages for six months. Fifty-two migrant workers protested in Beijing against their employer, demanding unpaid wages. According to press reports, they were severely beaten and then arrested. In February more than 1,000 mostly female workers from a textile factory in Sichuan Province gathered to petition the government to demand legally entitled compensation. Police and security guards were dispatched to disperse the protesters; five workers were injured in the confrontation, and three were detained but later released by the police.

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

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced and compulsory labor and contains provisions relevant to forced labor and trafficking for labor purposes; however, there were reports that such practices occurred. Punishment for forced labor offenses under the criminal code ranged from an administrative fine to a maximum of three years' imprisonment, which was deemed "insufficiently dissuasive" by the International Labor Organization's Committee of Experts on the Application of Standards. In February two persons who admitted imprisoning and beating workers (resulting in the death of an elderly worker) at their illegal brickyard in Shaanxi were sentenced to 18 months and 12 months (suspended for two years), respectively, in prison.

In May a forced labor case at a brick kiln in Anhui Province was exposed. According to local press accounts, police rescued 32 persons with mental disabilities, who had been forced to work as slave laborers, from brick kilns in Zhuanji and Guangwu townships and arrested 10 persons.

Forced labor remained a serious problem in penal institutions. Many prisoners and detainees in RTL facilities were required to work, often with no remuneration. In addition, there were credible allegations that prisoners were forced to work for private production facilities associated with prisons. These facilities often operated under two different names: a prison name and a commercial enterprise name. There was no effective mechanism to prevent the export of goods made under such conditions.

The Ministry of Justice cooperated with international officials to investigate an allegation of exported prison labor goods, allowing visits to a prison facility to investigate allegations that prison-made goods were being exported. Information about prisons, including associated labor camps and factories, was tightly controlled.

There were reports that employers withheld wages, or required unskilled workers to deposit several months' wages, as security against the workers departing early from their labor contracts. These practices often prevented workers from exercising their right to leave their employment and made them vulnerable to forced labor. However, implementation of new labor laws, along with workers' increased knowledge of their rights under these new laws, reportedly reduced these practices.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits the employment of children under the age of 16, but child labor remained a problem. The government does not publish statistics on the extent of child labor.

The labor law specifies administrative review, fines, and revocation of business licenses of those businesses that illegally hire minors and provides that underage children found working should be returned to their parents or other custodians in their original place of residence. However, a significant gap remained between legislation and implementation. Workers between the ages of 16 and 18 were referred to as "juvenile workers" and were prohibited from engaging in certain forms of physical work, including labor in mines.

Social compliance auditors working for foreign buyers continued to report some use of child labor in factories producing for export. There were some reports that schools supplied factories with illegal child labor under the pretext of vocational training. The International Trade Union Confederation (ITUC) alleged that the program used forced child labor to make up for school budget shortfalls, including in dangerous and labor-intensive industries such as fireworks manufacturing and cotton harvesting. The ITUC further alleged that teachers and children reported they were pressured to meet daily quotas or faced fines if they failed to meet production targets. Other industries reportedly employing forced child labor include bricks, cotton, electronics, and toys.

On April 6, Liu Pan, a 17-year-old migrant worker from Sichuan Province, was killed in a workplace accident at the Yiwah Stationary factory in Dongguan, Guangzhou Province. In a follow-up investigation, a local labor NGO reported several labor law violations at the factory, including that underage and child labor were widespread at the factory, with workers as young as 13 being hired in busy seasons. To settle claims related to his death, local press reported that Liu Pan's family accepted a settlement from the factory.

In November one child died and 11 children were critically injured in an explosion at an illegal fireworks shop near Guilin. Two owners of the workshop were in police custody on charges of employing child labor and producing dangerous goods without a license. The children, ages 7 to 15, were local students paid to make firecrackers at the workshop after school.

In June a local blogger posted photographs of child laborers in Wuhan, including two school-age children repairing vehicles outside.

In July 2008 party secretary Ji Bingxuan of Heilongjiang directed local police to rescue Du Xiguang, a 14-year-old migrant child worker in Harbin, and instructed local police to ensure that no business in the city hired children.

On April 1, the government announced a reward system to encourage persons to report the use of child labor, and it continued to react strongly to any publicized cases of child labor. However, many experts believed that child labor could not be eliminated without reform of rural education system and increased rural economic activity.

e. Acceptable Conditions of Work.—There was no national minimum wage, but the labor law requires local governments to set their own minimum wage according to standards promulgated by the Ministry of Human Resources and Social Security. These standards include the minimum cost of living for workers and their families, levels of economic development, and employment in the area, as well as the level of social insurance and other benefits contributions paid by the employees themselves. Labor bureaus set these standards to cover basic needs. The regulation states that labor and social security bureaus at or above the county level are responsible for enforcement of the law. It provides that where the ACFTU finds an employer in violation of the regulation, it shall have the power to demand that the relevant labor bureaus deal with the case.

Wage arrears remained a common problem. Governments at various levels continued their efforts to prevent arrears and recover payment of missing wages and insurance contributions. Legal aid lawyers and government sources reported that nonpayment or underpayment of wages accounted for a large portion of labor disputes. The incidence of wage arrears continued to increase early in the year as many of the country's export-oriented manufacturers, facing a sharp decline in orders from overseas, began to lay off large numbers of workers.

The estimated 230 million migrant workers faced numerous other obstacles with regard to working conditions and labor rights. Many were unable to access public services such as public education or social insurance in the cities where they lived and worked because they were not legally registered urban residents.

The labor law mandates a 40-hour standard workweek, excluding overtime, and a 24-hour weekly rest period. It also prohibits overtime work in excess of three hours per day or 36 hours per month and mandates a required percentage of additional pay for overtime work. However, in practice compliance with the law was weak, and standards were regularly violated, particularly in the private sector and in enterprises that used low-skilled migrant or seasonal labor.

There was inadequate enforcement of wage regulations, and a significant percentage of labor disputes filed by workers were due to insufficient overtime payments. There were reports that companies required workers to sign false contracts and often maintained fraudulent records to deceive government inspectors and factory auditors.

Other illegal practices effectively reduced workers' wages, including arbitrary fines and wage deductions levied by employers for alleged breaches of company rules.

While many labor laws and regulations on worker safety are fully compatible with international standards, implementation and enforcement were generally poor. The Ministry of Human Resource and Social Security reported that in 2008 there were only 23,000 full-time professional inspectors and indicated that there were areas in which a single labor inspector would be responsible for more than 50,000 workers.

Inadequate and poorly enforced occupational health and safety laws and regulations continued to put workers' health and lives at risk. The State Administration for Work Safety (SAWS) sets and enforces occupational health and safety regulations. The work safety law states that employees have the right, after finding an emergency situation that threatens their personal safety, to evacuate the workplace. Employers are forbidden to cancel the labor contracts or reduce the wages or benefits of any employee who takes such action. In practice such protective provisions were poorly enforced at the local level.

Businesses and factories that violate occupational hazard regulations face closure and a maximum penalty of RMB 300,000 (approximately \$44,000); they also are required to inform employees about possible occupational hazards and their consequences and provide occupational hazards prevention training. In addition, employers are required to give their workers necessary health checkups and buy protective gear for employees working around hazards. Businesses that violate the provision received a warning from SAWS, ordering them to correct the practice within a time limit. Enterprises that did not correct the problem within the time limit were fined.

The coal industry continued to have a high incidence of accidents and fatalities, but SAWS reported that annual deaths from coalmine accidents dropped 62.4 percent from a peak of 6,995 in 2002 to 2,630 during the year, and the death rate per million tons of mined coal has dropped 84.4 percent from 2000. Independent labor groups stated the actual casualty figures could be much higher, since many accidents were covered up.

The government continued efforts to improve mine safety, which included a policy of consolidating the industry into larger, better-regulated mining companies. In December the government announced that it had closed approximately 1,000 small coal mines during the year, cutting down the total number of coal mines to 15,000 across the country. (This followed a similar number of shutdown mines in 2008). In May the government launched a new nationwide safety inspection program for small coal mines. The campaign, to be jointly carried out by the National Development and Reform Commission, the State Energy Administration, SAWS, and the State Administration of Coal Mine Safety, targeted small mines with an annual production capacity of less than 300,000 tons.

Many workers encountered difficulties in obtaining compensation for work-related injuries. In July migrant miner Zhang Haichao voluntarily underwent surgery to open up his chest to prove he had pneumoconiosis, an occupational lung disease, after repeated attempts to claim compensation for pneumoconiosis failed. After proving the lung disease, Zhang finally received compensation. According to official media reports, more than 100 migrant workers in Shenzhen who claimed compensation due to pneumoconiosis were refused by the local occupational health authority due to their lack of written labor contracts.

The government sought to prosecute some employers responsible for work-related accidents. The most highly publicized was the State Council's decision to impose harsh criminal and disciplinary penalties on 169 persons held responsible for five major accidents in 2007 and 2008. The cases, involving 131 individuals, were hand-

ed over to judicial departments for criminal prosecution. The five accidents included a 2007 mine blast in Linfen, Shanxi Province, that killed 105; an April 2008 train collision that claimed 72 lives; and a September 2008 landslide at an unlicensed iron ore tailings facility, also in Linfen, that killed 277 persons.

In addition, in May police detained the manager and four production and management directors of a privately owned mine in Dengfeng after seven persons died of gas poisoning and the managers tried to cover up the accident. In June four construction officials and a driver were arrested for actions that allegedly caused the deaths of 11 miners at the Majialiang coal mine in Shanxi Province, where concentrations of toxic gas were too high. In August police detained 11 individuals for allegedly covering up a coal mine accident that left six persons dead in Shanxi Province. In September authorities prosecuted 13 officials and managers after two mining accidents in Henan Province caused at least 57 deaths. In December a local court in Hebei Province handed down sentences, including one death penalty, to 21 persons connected with a fatal mine explosion that claimed 26 lives in 2008.

TIBET

The United States recognizes the Tibet Autonomous Region (TAR) and Tibetan autonomous prefectures, counties, and townships in other provinces to be a part of the People's Republic of China. The Tibetan population within the TAR was approximately 2.8 million, while the Tibetan population outside the TAR was an estimated 2.9 million. The government strictly controlled information about, and access to, the TAR and Tibetan areas outside the TAR, making it difficult to determine accurately the scope of human rights abuses. The government intensified these controls following the March 2008 unrest in Tibetan areas and continued the policy during the year.

The government's human rights record in Tibetan areas of China remained poor, and the severe repression of freedoms of speech, religion, association, and movement that increased dramatically following the March 2008 Lhasa riots and subsequent unrest that occurred across the Tibetan Plateau continued during the year. Authorities continued to commit serious human rights abuses, including extrajudicial killings, torture, arbitrary arrests, extrajudicial detention, and house arrest. The preservation and development of Tibet's unique religious, cultural, and linguistic heritage remained a concern.

In March 2008 monks and nuns from a number of monasteries in Lhasa and other Tibetan communities mounted peaceful protests to commemorate the anniversary of the 1959 Tibetan uprising. After four days the protests and security response devolved into rioting by Tibetans and a violent police crackdown in Lhasa. Some protesters resorted to violence, in some cases deadly, against Han and Hui residents. The ensuing police actions resulted in an unknown number of deaths, injuries, arrests, and human rights abuses. During the year a number of Tibetans, especially monks, were sentenced to prison for their role in the 2008 protests and riots.

A significant number of People's Armed Police (PAP) remained in many communities across the Tibetan Plateau during the year. The fallout from the protests continued to affect the human rights situation in Tibetan regions of China.

Deprivation of Life.—There were numerous reports that the government or its agents committed arbitrary or unlawful killings; however, it was not possible to verify independently these reports. There were no reports that officials investigated or punished those responsible for the killings.

On January 23, Pema Tsepag died of injuries sustained during beatings by authorities after he and two other Tibetan youths protested in Dzogang County, Chamdo Prefecture, calling for independence for Tibet and a boycott of the Tibetan New Year.

According to the Tibetan Centre for Human Rights and Democracy (TCHRD), on March 25, public security agents killed 27-year-old monk Phuntsok Rabten of Drango Monastery in Drango County, Kardze (Ganzi), Sichuan Province, for distributing leaflets calling for a work strike.

In March Panchou Lede, a monk from the Hor Drago Monastery, was killed in a clash that erupted between Tibetan farmers and soldiers when the farmers refused to sign a pledge committing to keep a certain percentage of their land under cultivation. According to press reports, the monk had been organizing farmers to refuse to plant crops.

In August, according to TCHRD reports, 32-year-old Kalden, a monk from Drepung Monastery, died after being tortured in a Lhasa prison. Kalden was arrested in March 2008, and his relatives were not informed of his detention location.

Following the outbreak of protests in 2008, the government reported that 22 persons were killed in the Lhasa violence, including 18 civilians, one police officer, and three rioters. However, outside observers, including Tibetan exile groups and non-governmental organizations (NGOs), variously placed the number of persons killed in Tibetan areas due to official suppression that began March 10 at between 100 and 218.

According to official media, in April Lobsang Gyaltsen and Loyak were sentenced to death for their participation in the 2008 riots in Lhasa on charges related to "starting fatal fires." The government confirmed that they were executed on October 23. Reports of a third Tibetan executed at the same time could not be confirmed.

Disappearance.—Following the March 2008 riots in Lhasa, authorities arrested Tibetans arbitrarily, including monks and nuns, many of whom remained missing. Official statistics for the number detained were incomplete and covered only limited areas. On February 10, official media reported that 953 persons were detained or had surrendered to police in Lhasa following the riots. The report stated that 76 persons were sentenced to prison in connection with the unrest, and an additional 116 were awaiting trial.

According to the International Campaign for Tibet, Northwest Nationalities University student Tashi Rabten disappeared in July, soon after publication of his book *Written in Blood*. Tashi Rabten had edited a banned collection of writings on the March 2008 demonstrations.

Documentarian Dhondup Wangchen remained in an undisclosed prison near Xining, Qinghai Province. Authorities forced Dhondup Wangchen to fire his original Beijing-based defense counsel and told his family that only lawyers based in Qinghai Province could represent him. Qinghai authorities refused a request by foreign diplomats to observe his trial. On December 28, a court in Qinghai Province sentenced Dhondup Wangchen to six years in prison for making a film critical of human rights conditions in Tibet. At year's end there was no information on where he was serving his sentence.

There was no information on the whereabouts of five monks, including Sonam Rabgyal, Damdul, and Rabgyal, who disappeared following an April 2008 midnight raid on the Ramoche Temple in Lhasa. The whereabouts of Paljor Norbu, a Tibetan traditional painter sentenced to seven years in prison after a secret trial in November 2008, remained unknown at year's end. No new information was available on the whereabouts of Phuntsok Gyaltsen, the deputy head of Phurbu Township, Palgon County, who was detained in 2007.

The whereabouts of the Panchen Lama, Gendun Choekyi Nyima, Tibetan Buddhism's second-most prominent figure after the Dalai Lama, and his family remained unknown. In October government officials in Tibet told a visiting foreign delegation that Gendun Choekyi Nyima was "growing up very well, loves Chinese culture and enjoying his life." The officials asserted that his identification as the 11th Panchen Lama was "illegal."

Torture.—The security regime employed torture and degrading treatment in dealing with some detainees and prisoners. Tibetans repatriated from Nepal reportedly suffered torture, including electric shocks, exposure to cold, and severe beatings, and were forced to perform heavy physical labor. Prisoners were subjected routinely to "political investigation" sessions and were punished if deemed insufficiently loyal to the state.

In March police severely beat 21-year-old Tibetan nun Lobsang Khandro from the Gema Dra-wok Nunnery for carrying out an individual protest in Kardze (Ganzi) Prefecture. She carried pamphlets and some prayer flags and shouted calls for freedom and the Dalai Lama as she walked to the Kardze (Ganzi) Prefecture government headquarters.

On May 24, according to the TCHRD, police injured six persons in Tawu County of Kardze (Ganzi) Prefecture, Sichuan Province, while breaking up a protest against a hydroelectric project.

According to numerous sources, many of those detained after the rioting in March 2008 were subjected to extrajudicial punishments such as severe beatings and deprivation of food, water, and sleep for long periods. In some cases detainees suffered broken bones and other serious injuries at the hands of PAP and Public Security Bureau (PSB) officers. According to eyewitnesses, the bodies of persons killed during the unrest or subsequent interrogation were disposed of secretly rather than returned to their families.

During his trial, which began on April 21, Phurbu Tsering Rinpoche, head of Pangri and Yatseg nunneries in Kardze (Ganzi), who was arrested in March 2008, claimed that police handcuffed him with arms outstretched to an iron pillar and forced him to stand while they interrogated him continuously for four days and four

nights. They told Phurbu Tsering Rinpoche that if he did not confess his wife and son would be detained. His trial was later postponed indefinitely. Foreign diplomats asked to observe the trial but received no reply. In late December a court sentenced Phurbu Tsering Rinpoche to eight-and-a-half years in prison for illegal possession of weapons and ammunition (see Denial of Fair Public Trial section).

On May 3, Tibetan monk Jigme Guri from the Labrang Monastery was released from prison. He alleged that prison authorities beat him repeatedly during two months of detention beginning in March 2008. According to Jigme, the beatings left him unconscious for six days, and he required two hospitalizations.

Prison Conditions.—The mass detentions connected with the March 2008 unrest amplified already crowded and harsh prison conditions. Some prisons used forced labor, including those in the public security reeducation through labor system (RTL), to which prisoners may be assigned for two years without court review, detention centers, and prison work sites. The law states that prisoners may be required to work up to 12 hours per day, with one rest day every two weeks, but sometimes these regulations were not enforced; conditions varied from prison to prison.

According to numerous sources, political prisoners in Tibetan areas endured unsanitary conditions and often had little opportunity to wash or bathe. Many prisoners slept on the floor without blankets and sheets. Prisoners reported having to “sleep” side by side with 20 to 30 cell mates for many days.

Former detainees reported that prisoners were not provided with enough food. According to sources, prisoners rarely received medical care unless they had a serious illness. Prisoners also complained that they often failed to receive money, food, clothing, and books sent by their families because such items were routinely confiscated by prison guards.

Arbitrary Arrest and Detention.—During the year arbitrary arrest and detention continued in Tibetan areas. Police legally may detain persons for up to 37 days without formally arresting or charging them. Following the 37-day period, police must either formally arrest or release the detainees. Police must notify the relatives or employer of an arrested person within 24 hours of the arrest. In practice police frequently violated these requirements.

Official state media reported the detentions of 4,434 persons in Tibetan areas (1,315 in Lhasa) between March and April 2008, although in November 2008, official media reported that approximately 1,317 persons were arrested, 1,115 of whom were released afterwards. Overseas organizations and the Tibet government-in-exile placed the total number detained at more than 5,600.

Many prisoners were subject to the RTL system or other forms of detention not subject to judicial review.

Political Prisoners and Detainees.—Due to the lack of independent access to prisoners and prisons, it was impossible to ascertain the number of Tibetan political prisoners. A number of the Tibetans arrested or detained in the days and weeks following the spring 2008 protests were sentenced throughout the year. Many prisoners were held in the extrajudicial RTL prisons operated by the Ministry of Public Security and never appeared in public court.

Based on information available from the Congressional Executive Commission on China’s political prisoner database, at year’s end there were 754 Tibetan political prisoners imprisoned in Tibetan areas. However, the actual number of Tibetan political prisoners and detainees was believed to be much higher. Of the 754 documented currently detained political prisoners and detainees, 715 were detained on or after the March 2008 protests and 447 political prisoners and detainees were Tibetan Buddhist monks and nuns. At year’s end the commission’s database contained sentencing information on only 148 of the Tibetan political prisoners. The judicial system imposed sentences on these 148 political prisoners ranging from one year to life imprisonment. An unknown number of prisoners continued to be held under the RTL system.

On February 5, six Tibetans in Kardze (Ganzi) Prefecture, Sichuan, were sentenced from 18 months to three years in prison for participating in protests.

On May 21, according to the TCHRD, Tsultrim Gyatso, a monk of Labrang Monastery in southern Gansu Province, was sentenced to life imprisonment for “endangering state security.”

The TCHRD reported that on July 3, the Lithang County, Kardze (Ganzi) Prefecture intermediate people’s court sentenced Tibetan monk Jamyang Tenzin of Yonru Geyden Rabgayling Monastery, Lithang County, to three years’ imprisonment for opposing a work team sent to conduct a “patriotic education campaign” at his monastery.

On August 13, the TCHRD reported that eight Tibetans in Machen County were sentenced to one to seven years in prison following protests related to the suicide of Tashi Sangpo, which was reportedly triggered by his inhumane treatment at the hands of the police.

According to the Agence France Presse, early in the year authorities handed down sentences ranging from three years to life in prison to a total of 76 persons involved in the March 2008 riots. In April Lobsang Gyaltzen and Loyak were sentenced to death for setting fires to shops that reportedly resulted in seven deaths, and they were executed in October. Two others were given suspended death sentences.

Wangdu (Wangdui), a former employee of an HIV/AIDS prevention project run by a foreign NGO, who in 2008 was sentenced to life imprisonment for engaging in “espionage” on behalf of the “Dalai clique,” remained in prison. Migmar Dhondup, another former employee of a foreign NGO, also remained in prison on the same charge.

Prominent Buddhist figure Tenzin Delek Rinpoche remained in a Sichuan prison on firearms charges. According to Tibetan sources, the firearms were left at his temple by a group who had renounced hunting.

Dozens of monks and nuns who resisted “patriotic education” campaigns before the March 2008 protests continued serving prison terms.

According to the TCHRD, the PSB arrested Kunga Tsayang, a monk from the Amdo Labrang Tashi Kyil Monastery, during a late-night raid on March 17; at year's end his whereabouts remained unknown. The reported disappearance of Kunga Tsayang was part of a continuing sweep of Tibetan Internet writers that began after the March 2008 unrest. On November 12, he was sentenced to five years in prison on charges of disclosing state secrets in a closed-door trial by the Kanlho Intermediate People's Court in Gannan, Gansu Province.

The following persons also remained in prison: Rongye Adrak; Adak Lupoe; lama Jigme Tenzin (Jinmei Danzeng) aka Bangri Chogtrul; Jarib Lothog; monk Lodroe; Khenpo Jinpa; Jarib Lothog; art teacher and musician Kunkhyen; Buchung; Penpa; and Bangri Chogtrul Rinpoche; monk Choeying Khedrub (Quyín Kezhu); Dawa (also called Gyaltzen Namdak); monk Lobsang Palden; teacher Dolma Kyab; Sherab Yonten, Sonam Gyelpo, retired physician Yeshe Choedron (Yixi Quzhen) monk Tenzin Bucheng (Danzeng Puqiong), monk Lobsang Ngodrub; and monk Tsering Dhondup.

Denial of Fair Public Trial.—Legal safeguards for Tibetans detained or imprisoned were inadequate in both design and implementation. Most judges in the TAR had little or no legal training. According to a TAR Bureau of Justice official, all seven cities and prefectures had established legal assistance centers that offered services in the Tibetan language. Prisoners may request a meeting with a government-appointed attorney, but in practice many defendants did not have access to legal representation.

Lawyers who volunteered to represent detainees involved in the March 2008 protests received warnings from authorities not to take on such cases. Authorities threatened some with punishment or placed them under police surveillance. In cases involving state security, trials often were cursory and closed. Authorities denied multiple requests from foreign diplomats to observe the trials of those charged with crimes related to the March 2008 unrest. By law maximum prison sentences for crimes such as “endangering state security” and “splitting the country” are 15 years for each count, not to exceed 20 years in total. Authorities sentenced Tibetans for alleged support of Tibetan independence regardless of whether their activities involved violence.

In November 2008 the Sichuan Ganzi Tibetan Autonomous Prefecture Intermediate People's Court sentenced Dorje Kangzhu, a 34-year-old nun, to seven years in prison for “inciting secession.” She was arrested for distributing Tibetan independence leaflets and shouting pro-Tibet slogans in May 2008.

In late December Phurbu Tsering Rinpoche, a senior religious leader who allegedly had been tortured to get a false confession, was sentenced to eight-and-a-half years in prison on weapons charges following the riots in Tibet. Prosecutors maintained that a pistol and ammunition were found during a police raid, but Phurbu Tsering Rinpoche countered that he had been framed. The monk's lawyer stated he had given a false confession after police deprived him of sleep for four days (see Torture section).

Freedom of Speech and Press.—Tibetans who spoke to foreign reporters, attempted to relay information to foreigners outside the country, or passed information regarding the 2008 protests were subject to harassment or detention.

The government severely restricted travel by foreign journalists to Tibetan areas. In the TAR, foreign journalists can gain access to the region only by participating

in highly structured government organized tours, where the constant presence of government minders makes independent reporting difficult. Outside the TAR, foreign journalists were frequently expelled despite new government rules, adopted in October 2008, that state foreign journalists no longer need the permission of local authorities to conduct reporting.

In March the Foreign Correspondents' Club of China urged the government to halt detentions of journalists and open Tibetan areas for news coverage. Reporters from at least six different news organizations were detained or had their property confiscated when they attempted to visit Tibetan areas of Gansu, Sichuan, and Qinghai provinces ahead of the first anniversary of social unrest in Tibet.

For example, on February 27, PSB authorities detained Edward Wong and Jonathan Ansfield, two New York Times reporters, in Gansu Province for nearly 24 hours and forced them to board a flight back to Beijing the next day. On March 8, police detained Isabel Hormaeche, a producer with broadcaster TVE, and her team in Sichuan Province. Some of their materials were confiscated, and they were escorted out of the region. On March 9, authorities detained Beniamino Natale, a reporter with ANSA news agency, along with two colleagues for more than two hours after they visited a monastery in Qinghai Province. At approximately the same time, police repeatedly detained and followed Katri Makkonen of the Finnish Broadcasting Company on the road from Tongren to Xining, Qinghai Province. No explanation was given for the police actions.

In August Reporters Without Borders reported the arrests of four Tibetan writers: Zhuori Cicheng, the monk Gang Ni, journalist Tashi Rabten (aka Therang), and Kang Gongque. Kang Gongque was sentenced to two years in a Sichuan Province prison.

The government continued to jam radio broadcasts of Voice of America's (VOA) and Radio Free Asia's (RFA) Tibetan and Chinese-language services and the Oslo-based Voice of Tibet. In Tibetan areas of southern Gansu Province and the Kardze (Ganzi) Tibetan Autonomous Prefecture, Sichuan Province, police confiscated or destroyed satellite dishes suspected of receiving VOA Tibetan language television as well as VOA and RFA audio satellite channels. Some Tibetans reported that at times they were able to receive such radio broadcasts despite frequent jamming. Some Tibetans were able to listen to overseas Tibetan-language radio and television on the Internet.

Cell phone service and Internet service in the TAR and the Tibetan areas of Sichuan, Qinghai, and Gansu provinces were curtailed at times during the March period of sensitive anniversaries and the new "Serf Liberation Day" (see Academic Freedom and Protection of Cultural Heritage).

Officials also routinely denied foreign media representatives access to Tibetan areas, ostensibly out of concern for their safety. Domestic journalists reporting on repression in Tibetan areas faced punishment.

Internet Freedom.—The Internet blog of well-known Tibetan poet and journalist, Tsering Woeser, remained inaccessible to Internet users inside China due to official Internet filtering. Authorities continued to refuse to issue Woeser a passport. Most foreign Tibet-related Web sites critical of official policy in Tibetan areas were blocked to users in China throughout the year. On March 24, government censors blocked the YouTube site after a video purporting to show police beating a Tibetan monk appeared on the site.

Official censorship greatly hampered the development of Tibetan-language Internet sites. Although the government funded projects designed to improve Tibetan-language computer interfaces, security agencies responsible for monitoring the Internet often lacked the language skills necessary to monitor Tibetan content. As a result, Tibetan-language blogs and Web sites were subject to blunt censorship, with entire sites closed down even when the content did not appear to touch upon sensitive topics.

On February 26, police in Machu County, Gannan Tibetan Autonomous Prefecture, arrested Kunchok Tsephel Gopey Tsang, owner of the Tibetan cultural and literary Web site "The Lamp," which was taken off the Internet for several months. In November he was sentenced to 15 years in prison on charges of disclosing state secrets.

According to the Dui Hua Foundation, Gonpo Tserang was sentenced in Dechen, TAR, to three years in prison for "inciting separatism" by sending e-mail and text messages about the March 2008 protests. The verdict from the trial stated that "Gonpo Tserang used the Internet to deliberately fabricate rumors, distort the true situation to incite separatism."

In February both Internet and cell phone text messaging was cut off in various parts of Kardze (Ganzi) and Aba prefectures in the TAR.

Academic Freedom and Protection of Cultural Heritage.—Authorities in Tibetan areas required professors and students at institutions of higher education to attend political education sessions in an effort to prevent separatist political and religious activities on campus. Ethnic Tibetan academics were frequently encouraged to participate in government propaganda efforts, such as by making public speeches supporting government policies or accepting interviews by official media. Academics who failed to cooperate with such efforts faced diminished prospects for promotion. Academics in China who publicly criticized the Chinese Communist Party's (CCP) policies on Tibetan affairs faced official reprisal. The government controlled curricula, texts, and other course materials as well as the publication of historically or politically sensitive academic books.

Rapid economic growth, the expanding tourism industry, the forced resettlement of nomads, and the introduction of more modern cultural influences continued to disrupt traditional living patterns and customs.

The 2002 revision of the 1987 Regulation on the Study, Use, and Development of the Tibetan Language in the TAR formally lowered the status of the Tibetan language from the primary working language to an optional language in many official contexts.

In January the Lhasa Municipal PSB began a city-wide "strike hard" campaign. Although ostensibly an anticrime operation, police searched private homes, guest houses, hotels, bars, and Internet cafes for photographs of the Dalai Lama and other politically forbidden items. Police examined the cell phones of Lhasa residents to search for "reactionary music" from India and photographs of the Dalai Lama. According to a foreign press report, more than 5,000 suspects were investigated, and at least 81 were detained. Human rights groups believed the motive behind the "strike hard" campaign was to harass human rights activists and supporters of Tibetan independence.

Many Tibetans both inside and outside the country advocated that the Losar Tibetan New Year holiday, which fell on February 25, be a day of remembrance and prayer, rather than celebration, in light of the deaths that occurred in 2008. To counter this Losar boycott, officials in many Tibetan regions ordered Tibetans to celebrate the holiday. In some Tibetan areas, authorities distributed fireworks to government offices and work units with orders that workers participate in celebrations. The state media devoted heavy coverage to Losar activities. More than 100 monks from Lutsang Monastery, in Guinan, Qinghai Province, conducted a candlelight vigil on the Tibetan New Year and a peaceful march to the county government headquarters. They were arrested, and all but six were released a few weeks later. In April four of the monks were sentenced to two years in prison.

On March 28, the TAR celebrated a newly created holiday, "Serf Emancipation Day," to mark the day in 1959 that China's rulers formally abolished the Dalai Lama's regional government. Government-orchestrated celebrations included a large ceremony in the square of the Potala Palace and a televised musical gala. In the run-up to the new holiday, the official media launched a new round of criticism of the Dalai Lama. A government white paper released prior to the holiday stated the Dalai Lama's family once owned 6,000 slaves, and the country's liberation of Tibetan serfs "is entirely comparable to the emancipation of slaves in the American Civil War."

The Dalai Lama and other observers expressed concern that development projects and other central government policies disproportionately benefited non-Tibetans and continued to promote a considerable influx of Han, Hui, and other ethnic groups into the TAR. On November 24, the Chinese government reported that the railroad into the TAR had carried 8.3 million passengers and 62.21 metric tons of freight since its opening in 2006.

Residents lacked the right to play a role in protecting their cultural heritage, including their environment. In 2007 the TAR government revised the TAR Cultural Relics Protection Regulations, asserting ownership over religious relics and monasteries.

Tibetan and Mandarin are official languages in the TAR, and both languages appeared on public and commercial signs. Mandarin was widely spoken and was used for most official communications. The illiteracy rate among Tibetans was more than five times higher (47.6 percent) than the national average (9.1 percent), according to 2000 census data. In many rural and nomadic areas, children received only one to three years of Tibetan-language education before continuing their education in a Mandarin-language school. According to official figures, the illiteracy rate among youth and working-age adults fell from 30.9 percent in 2003 to 2.4 percent in 2008. However, the illiteracy rate for this group was much higher in some areas. According to a 2006 report by the Xinhua News Agency, a looser definition of literacy was used for Tibetan speakers than for Mandarin speakers in rural Tibet. Tibetan-

speaking peasants and nomads were considered literate if they could read and write the 30 letters of the Tibetan syllabary and read and write simple notes. Mandarin-speaking nomads and herders were considered literate if they could recognize 1,500 Chinese characters.

The government established a comprehensive national Tibetan-language curriculum, and many elementary schools in Tibetan areas used Tibetan as the primary language of instruction. Tibetan students also were required to study Chinese, and Chinese generally was used to teach certain subjects, such as arithmetic and science. In middle and high schools—even some officially designated as Tibetan schools—teachers often used Tibetan only to teach classes in Tibetan language, literature, and culture and taught all other classes in Chinese.

As a practical matter, proficiency in Mandarin was essential to qualify for higher education. China's most prestigious universities provided no instruction in Tibetan or other ethnic minority languages. Lower-ranked universities established to serve ethnic minority students only offered Tibetan-language instruction in courses focused on the study of the Tibetan language or culture. At the minority universities, Tibetans and other ethnic minority students typically achieved high proficiency in Mandarin, since much of the curriculum, such as computer and business courses, was in Mandarin.

Leading universities generally required English language proficiency for matriculation. Most graduates of Tibetan schools, however, learned only Mandarin and Tibetan and were thus unable to attend the better universities. This resulted in a shortage of Tibetans trained in science and engineering and, consequently, a near-total reliance on imported technical specialists from outside the TAR to work on development projects inside the TAR.

Freedom of Religion.—While the law provides for freedom of religious belief, the level of actual religious freedom remained poor. During the year the government maintained tight control over the teaching and practice of Tibetan Buddhism. During the year the CCP continued its efforts to discredit the Dalai Lama as a religious leader and link reverence for him with political opposition to the government and the CCP.

Press and NGO reports suggested that continued tight government controls on religious practices and places of worship in Tibetan areas, in addition to social and economic factors, were among the major reasons for the buildup of resentments that led to the widespread protests that began in March 2008. Although authorities permitted many traditional practices and public manifestations of belief, they promptly and forcibly suppressed activities they viewed as vehicles for political dissent or advocacy of Tibetan independence, including openly worshipping the Dalai Lama. Government officials closely associated Buddhist monasteries with pro-independence activism in Tibetan areas.

During the year authorities locked down many monasteries across Tibetan areas, detaining and physically abusing an unknown number of monks and nuns or expelling them from their monasteries. At year's end more than 500 monks from other Tibetan areas outside of the TAR who were expelled from monasteries in Lhasa in 2008 had not been permitted to return. In some Tibetan regions, local PSBs installed cameras and opened police substations inside monasteries to monitor the behavior of monks.

On July 24, according to the TCHRD, Lobsang Tsultrim, the disciplinary head monk of the Jachung Monastery in a Qinghai Province, was expelled from his monastery and forbidden to join any other monastery after no monk turned up for a "patriotic education" session officials ordered him to call. Lobsang Tsultrim was accused of opposing the "patriotic education" campaign.

Following the March 2008 unrest, authorities forced many monks to attend weekly, sometimes daily, political education sessions. This policy continued during the year, although the frequency and intensity of these campaigns declined. During the year "patriotic education" and "legal education" programs continued to be held at monastic institutions, workplaces, businesses, and schools. In some areas these political education campaigns involved forced denunciations of the Dalai Lama. Officials also forced monks to remove portraits of the Dalai Lama from prayer halls and personal residences, although enforcement varied significantly by region. Restriction on religious expression was most intense at high-profile monasteries, such as Drepung and Sera in Lhasa, in Kardze (Ganzi), and Kirti Monasteries in Sichuan, Labrang in Xiahe, Gansu Province and Kumbum near Xining, Qinghai province.

Security measures intensified in the TAR and other Tibetan areas during the Dalai Lama's birthday, sensitive anniversaries, like the 50th anniversary of the 1959 Tibetan uprising in March, and festival days. The prohibition on celebrating the Dalai Lama's birthday on July 6 continued.

The government continued to ban pictures of Gendun Choekyi Nyima, the boy recognized by the Dalai Lama as the Panchen Lama. Photographs of the “official” Panchen Lama, Gyaltzen Norbu, were not widely displayed except at some high-profile monasteries under tight government control and then only at the insistence of government leaders. However, photographs of the previous Panchen Lama, his daughter, and the Karmapa (the leader of Tibetan Buddhism’s Karma Kagyu schools and one of the most influential religious figures in Tibetan Buddhism who fled to India in 1999) were widely sold and displayed. The ability of Tibetan Buddhist monks and nuns to possess and display photographs of the Dalai Lama varied greatly depending on location. In general rural monasteries rarely visited by Han tourists and officials were able to display photographs of the Dalai Lama. In some monasteries, monks were able to display photographs of the Dalai Lama in their private quarters, although such images were not always allowed to be shown in public areas.

The government restricted ethnic Han Buddhists from living and studying in monasteries in the TAR and other Tibetan areas. Monks outside the TAR desiring to study in the TAR are required to obtain official permission from the religious affairs bureaus (RABs) of their home province and the TAR or Tibetan area involved, and such permission was not readily granted.

Although Tibetan monks were not allowed to conduct large-scale religious teachings outside Tibetan areas, many monks continued to give private teachings to audiences in non-Tibetan regions of China. According to reports, ethnic Han Buddhists outside Tibetan areas were sometimes discouraged from inviting Tibetan monks to give teachings. Such visits required explicit permission from both the monk’s local RAB and the receiving province’s RAB. Nevertheless, Tibetan monks sometimes traveled in plain clothes outside the TAR and other Tibetan areas to teach.

Monasteries in the TAR and major monasteries in other Tibetan areas were not allowed to establish relationships with other monasteries or hold joint religious activities. One example was the repeated refusal of authorities in Barkham County in the TAR to grant permission to hold an annual religious event at the Tsodham Monastery. This event, scheduled to take place in early 2010, would have brought together monks from 50 monasteries in the Kham and Amdo areas of the TAR.

The government continued to fund restoration efforts of religious and cultural sites as part of its program to develop tourism in Tibetan areas. Many Tibetans worried that the promotion of tourism to monasteries distracted monks from their religious work.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf/.

Freedom of Movement.—The law provides for the freedom to travel; however, in practice the government strictly regulated travel and freedom of movement of Tibetans.

Freedom of movement, particularly for monks and nuns, was limited severely within Lhasa and throughout the TAR, and in Tibetan areas of Qinghai, Gansu, and Sichuan provinces. The PAP and local PSBs set up multiple roadblocks and checkpoints on major roads, in cities, and on the outskirts of monasteries. Tibetans traveling in religious attire were subject to extra scrutiny by police at roadside checkpoints. Several Tibetan monks reported that it remained difficult to travel outside their home monasteries, with officials frequently denying permission for outside monks to stay temporarily at a particular monastery for religious education.

Many Tibetans, particularly prominent religious figures, scholars, and dissidents, as well as those from rural areas, continued to report difficulties obtaining passports. It has been more difficult for Tibetans to obtain passports following the March 2008 protests. The renewal of existing passports was also difficult for ethnic Tibetans. In some cases, Tibetans had to promise not to travel to India to obtain a passport. In some cases Tibetan students with scholarships to foreign universities could not study abroad because authorities refused to issue them a passport.

Tibetans continued to encounter substantial difficulties and obstacles in traveling to India for religious, educational, and other purposes. Government and CCP cadres in the TAR and Kardze (Ganzi) Prefecture in Sichuan were not allowed to send their children to study abroad. In addition to passport restrictions, reinforcement of border posts made travel, such as pilgrimages to Nepal and India to see the Dalai Lama, more difficult.

The government restricted the movement of Tibetans during sensitive anniversaries and events and increased controls over border areas at these times. There were reports of arbitrary detention of persons, particularly monks and nuns, returning from India and Nepal. Detentions generally lasted for several months, although in most cases authorities did not bring formal charges against prisoners.

Tight border controls sharply limited the number of persons crossing the border into Nepal and India. The Tibet Reception Center in Dharamsala, India, received

838 visitors during the year. While this number was an increase from 2008, it was still down significantly from previous years.

The Dalai Lama, the Karmapa, and leaders of all other schools of Tibetan Buddhism remained in exile.

The government also regulated foreign travel to the TAR. In accordance with a 1989 regulation, foreign visitors were required to obtain an official confirmation letter issued by the PRC government before entering the TAR. Most tourists obtained such letters by booking tours through officially registered travel agencies. Authorities halted nearly all foreign travel to Lhasa for several months following the March 2008 demonstration. Foreign tourists were again banned from the TAR in March during the 50th anniversary of the 1959 Tibetan uprising. After March the number of foreign tourists traveling to Tibet increased, but authorities enforced more tightly than before existing rules that foreign visitors must remain with tour groups.

Foreign nationals who were granted official permission to travel to Lhasa again had their movements restricted within the city and surrounding areas. PRC officials continued to severely restrict the access of diplomats and journalists to Tibet. Foreign officials and reporters were able to travel to the region only on closely chaperoned trips arranged by the Tibet Foreign Affairs Office. Foreign diplomats must obtain permission from the TAR's Foreign Affairs Office for each visit to the TAR; permission was difficult to obtain.

Official visits to the TAR were supervised closely and afforded delegation members very few opportunities to meet local residents not previously approved by the authorities. With the exception of a few highly controlled trips, authorities repeatedly denied requests for international observers to visit Tibetan areas to assess the situation.

National Minorities.—Although TAR census figures showed that Tibetans made up 92 percent of the TAR's permanently registered population, official figures did not include a large number of long-, medium-, and short-term Han residents, such as cadres, skilled workers, unskilled laborers, military and paramilitary troops, and their dependents. Chinese social scientists estimated the number of this floating population, including tourists and visitors on short-term business trips, for Lhasa alone was more than 200,000 (nearly half the population of Lhasa and more than 10 percent of the TAR's population) during the May to November high season for tourism and migrant workers.

Migrants to the TAR overwhelmingly were concentrated in urban areas, where government economic policies disproportionately benefited Han Chinese. Small businesses, mostly restaurants and retail shops, run by Han and Hui migrants predominated in cities throughout Tibetan areas. Tibetans continued to make up nearly 98 percent of the rural population, according to official census figures.

The government continued its resettlement campaign of Tibetan nomads into urban areas across the TAR and other Tibetan areas. Officials offered nomads monetary incentives to kill or sell their livestock and move to newly created Tibetan communities. However, reports existed of incidences of compulsory resettlement with promised compensation that either failed to materialize or was inadequate.

In January 2007 TAR Party Secretary Zhang Qingli stated that the restructuring of Tibetan farming and grazing communities was not only to promote economic development but also to counteract the Dalai Lama's influence. He also stated that to do so was essential for "continuing to carry out major development of west China." According to a March 20 Xinhua report on the progress to settle all 219,800 herder households in the TAR, by the end of 2008, 200,000 households, including one million farmers and herders, had been settled into permanent housing.

Improving housing conditions and education for Tibet's poorest were among the goals of resettlement, yet a requirement that villagers build houses according to strict official specifications within two or three years often forced resettled families into debt to cover construction costs.

Although a 2008 state media report noted that Tibetans and other minority ethnic groups made up 69 percent of government employees in the TAR, ethnic Han continued to hold the top CCP positions in nearly all counties and prefectures, including that of TAR party secretary. Tibetans holding government positions were prohibited from worshipping at monasteries or practicing their religion.

The economic and social exclusion of Tibetans was a major reason why such a varied cross section of Tibetans, including business operators, workers, students, university graduates, farmers, and nomads participated in the 2008 protests. Some Tibetans reported that they experienced discrimination in employment, and some job advertisements in the TAR noted that Tibetans need not apply. Some claimed that Han Chinese were hired preferentially for many jobs and received greater pay for the same work. Some Tibetans reported that it was more difficult for Tibetans than Han to obtain permits and loans to open businesses. The use of the Mandarin lan-

guage was widespread in urban areas and many businesses limited employment opportunities for Tibetans who did not speak Mandarin. New restrictions on international NGOs that provide assistance to Tibetan communities resulted in the elimination of many NGO programs and the expulsion of many foreign NGO workers from the TAR.

The TAR tourism bureau continued its policy of refusing to hire Tibetan tour guides educated in India or Nepal. Government officials stated that all tour guides working in the TAR were required to seek employment with the Tourism Bureau and pass a licensing exam on tourism and political ideology. The government's stated intent was to ensure that all tour guides provided visitors with the government's position opposing Tibetan independence and the activities of the Dalai Lama. Some ethnic Tibetan tour guides in the TAR complained of unfair competition from government-sponsored "Help Tibet" tour guides brought in from outside the TAR and put to work after receiving a crash course on Tibet.

Women and Children.—There were no formal restrictions on women's participation in the political system, and women held many lower-level government positions. However, women were underrepresented at the provincial and prefecture levels of government. According to an official Web site, female cadres in the TAR accounted for more than 30 percent of the TAR's total cadres.

There was no information on the incidence of rape or domestic violence.

Prostitution was a growing problem in Tibetan areas, and hundreds of brothels operated semi-openly in Lhasa. International development workers in the TAR reported there were no reliable data on the number of persons engaged in the commercial sex trade in Lhasa and Shigatse, the TAR's two largest cities. Some of the prostitution occurred at sites owned by the CCP, the government, and the military. Most prostitutes in the TAR were ethnic Han women, predominantly from Sichuan Province. However, some ethnic Tibetans, mainly young girls from rural or nomadic areas, also engaged in prostitution. While the incidence of HIV/AIDS among those in prostitution in Tibetan areas was unknown, the TAR Health Bureau reported 102 cases of HIV/AIDS in the TAR between 1993 and 2009, including 28 new cases during January and November. Lack of knowledge about HIV transmission and economic pressures on women and girls engaged in prostitution led them to engage in unprotected sex.

Family planning policies permitted Tibetans and members of other relatively small minority groups to have more children than ethnic Han. Some urban Tibetans who have permanent employment, as well as CCP members and government officials, and some ethnic Han living in Tibetan areas, generally were limited to two children. Rural Tibetans were encouraged, but not required, to limit births to three children.

According to official policy, primary education was compulsory, free, and universal. According to official TAR statistics, 96.5 percent of children between the ages of six and 13 attended school, and 90 percent of the TAR's 520,000 primary school students completed lower middle school, for a total of nine years of education. In 2003 the UN Special Rapporteur on the Right to Education reported that official Chinese education statistics did not accurately reflect attendance and were not independently verified.

The TAR is one of the few areas of China that does not have a skewed sex ratio resulting from sex-selective abortion and inadequate health care for female infants.

HONG KONG

Hong Kong, with a population of approximately seven million, is a Special Administrative Region (SAR) of the People's Republic of China (PRC). The 1984 Sino-British Joint Declaration on the Question of Hong Kong and the SAR's charter, the Basic Law of the SAR (the Basic Law), specify that Hong Kong will enjoy a high degree of autonomy except in matters of defense and foreign affairs. The Fourth Term Legislative Council (LegCo) was elected from a combination of geographic and functional constituencies in September 2008 elections that were generally free and fair. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, although core issues remained. The SAR limits the ability of citizens to participate in and change their government. Claims of press self-censorship persisted. The legislature is limited in its power to introduce or amend legislation and is not empowered to approve executive appointments. Disproportionate political influence is granted to certain sectors of society through the existence of small-circle "functional constituencies," that elected half of the LegCo. Societal prejudice against certain ethnic mi-

norities persisted. The government began steps to implement a minimum wage for all workers except live-in domestic helpers and student interns, who lacked a guaranteed right to bargain collectively.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings.

On March 17, a fatal police shooting occurred during an altercation in which ethnic Nepali Dil Bahadur Limbu violently resisted a police constable's request to examine his identity documents. The officer reported he was unable to subdue Limbu with his baton or pepper spray and that he fired on Limbu after Limbu ignored verbal warnings and continued to threaten him with the sharp end of a broken chair. The police conducted an internal investigation into the incident and reported their findings to the coroner May 29. At year's end the coroner's inquest was continuing.

Limbu's family and local activists expressed concern that the police officer had given his warnings only in Cantonese (which Limbu did not speak), as well as the subsequent decision to hold the coroner's inquest in Cantonese (simultaneous interpretation was provided in Nepalese and English for participants and observers in the public gallery). The family requested an independent inquiry into the incident. The LegCo's Security Panel called for an independent investigation.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Basic Law prohibits torture and other forms of abuse, and the government generally observed the prohibition in practice. In the first half of the year, there were 184 allegations of assault by police officers on persons in detention. As of June, 51 officers were investigated with results endorsed by the Independent Police Complaints Council (IPCC); the rest were pending at year's end. Investigations found one case to be unsubstantiated, four to be false, and 14 to be not pursuable; the remaining 32 allegations were withdrawn. There were 38 cases of assault by police officers on persons not in custody filed, with 20 pending investigation as of June. Investigations into the remaining 18 were endorsed by the IPCC, with three cases found not pursuable and 15 complaints withdrawn.

The Police Force's Complaints Against Police Office (CAPO), monitored by the IPCC, investigated an August incident in which narcotics officers reportedly entered a house without presenting identification or search warrant until the search had already been underway for an hour. Officers reportedly handcuffed and beat two residents in the course of a search for narcotics, reportedly leaving one resident with a ruptured right eardrum.

On September 18, a police officer was sentenced to 12 years in jail for accessing his colleagues' files and then, in four separate incidents, sexually assaulting three of them and raping one. In response to this incident and five other serious offenses committed by police officers in 2008, the commissioner of police convened a committee of senior officers and a representative of the Independent Commission Against Corruption (ICAC) to consider ways to better monitor officers' integrity and improve the police force's image. He also announced changes to the police recruiting process to take effect in 2010.

Police use of strip searches during detentions of protesters and criminal suspects, which the UN Committee Against Torture had criticized in its 2008 Concluding Observations, remained a concern for LegCo. A 2008 IPCC review of one case led the CAPO to rule in July that repeated searches conducted each time an individual entered and departed a holding facility were incorrect. The police amended their general orders to allow searches at officer discretion, rather than automatically, each time an individual reentered a detention facility. The police also revised guidelines when some or all of a detainee's clothing is removed, including providing a form explaining the reasons for the search and giving the detainee the right to register a complaint. In addition all full strip searches are reviewed by the relevant assistant divisional commanders.

Police continued to defend the use of intrusive searches, noting the large quantity of narcotics seized from persons attempting to smuggle them into detention facilities. Correctional Services reported 98 seizures of illegal narcotics in the January to July period.

Prison and Detention Center Conditions.—Prison conditions generally met international standards. The government permitted monitoring visits by independent human rights observers and such visits occurred during the year.

There are separate facilities for adult male and female prisoners and for male and female juveniles. As of 2008 the total population in prison, rehabilitation, or pretrial detention was 10,491: 8,259 male and 2,232 female. As of June a total of 79 juveniles under age 16 were serving sentences in penal, retraining, or rehabilitation facilities.

Through June the average prison occupancy rate was 94 percent. Overcrowding occurred in some prisons, particularly in maximum security prisons, pretrial detention facilities, and institutions for female inmates. The Lo Wu Correctional Institution was being modified to reduce overcrowding in facilities housing female inmates.

Between January and June, there were two deaths in police custody. An inquest into one case led to a coroner's finding of death by "natural causes." At year's end the second case was pending an inquest.

On August 31, the High Court (Court of First Instance) ruled against the system by which prison administrators adjudicated breaches of discipline, using denial of sentence reductions as a penalty. The decision called for an administrator not connected with the institution in which the offense occurred to hear the case, that a standard of "beyond a reasonable doubt" be applied to the charges, and that the proceedings be recorded to permit review.

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

Role of the Police and Security Apparatus.—Civilian authorities maintained effective control over the police, and the government had generally effective mechanisms to investigate and punish abuse and corruption.

There were no reports of impunity involving the security forces during the year. A July 2008 bill provided a statutory basis for the existing IPCC, which is charged with overseeing CAPO. The IPCC began operations as a statutory body on April 1. It observes, monitors, and reviews complaints and actions taken in connection with such complaints. It may identify any fault or deficiency in police practices or procedures and make recommendations in respect to such practices or procedures. The IPCC can require the police to investigate or reinvestigate complaints and provide other information as it deems necessary. The IPCC also advises or makes recommendations to the commissioner of police or the chief executive (CE) as appropriate. IPCC members and observers are also empowered to attend any interview conducted by the police concerning a complaint and observe the collection of evidence by the police in the investigation of a complaint at any time and without prior appointment.

Human rights activists and some legislators expressed concern that all IPCC members are appointed by the CE and that the IPCC's lack of power to conduct independent investigations limits its oversight capacity. In 2008 the UN Committee Against Torture, while "welcoming the enactment of the Independent Police Complaints Council Ordinance and the new Guidelines on Searching of Detained Persons," recommended that Hong Kong continue to take steps to establish a fully independent mechanism mandated to receive and investigate complaints of police misconduct.

In April activists and media expressed concern about absenteeism by the IPCC vice chairmen and members. Some of the vice chairmen served concurrently as legislators and cited conflicts with LegCo meetings. Of the council's 18 members, the media reported that only three attended all six of the IPCC's 2008 meetings.

Arrest Procedures and Treatment While in Detention.—Suspects were apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official. Suspects must be charged within 48 hours or released, and the government respected this right in practice. Interviews of suspects are required to be videotaped.

The average period of pretrial detention in the first half of the year was 68 days. There is a functioning bail system, and detainees are allowed prompt access to a lawyer and family members. The law provides accused persons with the right to a prompt judicial determination.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected judicial independence in practice. The judiciary provided citizens with a fair and efficient judicial process. The courts may interpret those provisions of the Basic Law that address matters within the limits of the SAR's autonomy. The courts also interpret provisions of the Basic Law that touch on central government responsibilities or on the relationship between the central authorities and the SAR. However, before making final judgments on these matters, which are not subject to appeal, the courts must seek an interpretation of the relevant provisions from the Standing Committee of the National People's Congress (NPC/SC). The Basic Law requires that courts follow the NPC/SC's interpretations, although judgments previously rendered are not affected. As the final inter-

preter of the Basic Law, the NPC/SC also has the power to initiate interpretations of the Basic Law.

The NPC/SC's mechanism for interpretation is its Committee for the Basic Law, composed of six Mainland and six Hong Kong members. The CE, the LegCo president, and the chief justice nominate the Hong Kong members. Human rights and lawyers' organizations expressed concern that this process, which can supersede the Court of Final Appeal's power of final adjudication, could be used to limit the independence of the judiciary or could degrade the court's authority.

Trial Procedures.—The law provides for the right to a fair public trial, and an independent judiciary generally enforced this right in practice. The judiciary was an active participant in the international community of common law jurisprudence. A panel of 15 nonpermanent judges from other common law jurisdictions served the Court of Final Appeal, providing a fifth judge to join panels with four permanent justices to hear cases and participate in the drafting of decisions. Legal precedents from other common law jurisdictions were routinely cited in the courts.

Trials are by jury except at the magistrate and district court level. An attorney is provided at the public's expense if defendants cannot afford counsel. Defendants can confront and question witnesses testifying against them and present witnesses to testify on their behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants have the right of appeal.

Defendants enjoy a presumption of innocence except in official corruption cases. Under the Prevention of Bribery Ordinance, a current or former government official who maintained a standard of living above that commensurate with his official income, or who controls monies or property disproportionate to his official income, is guilty of an offense unless he can satisfactorily explain the discrepancy. In practice the courts upheld this ordinance. Court proceedings are conducted in either Chinese or English, the SAR's two official languages.

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

Civil Judicial Procedures and Remedies.—There is an independent and impartial judiciary for civil matters and access to a court to bring lawsuits seeking damages for, or the cessation of, human rights violations.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

The Office of the Privacy Commissioner for Personal Data (PCPD) worked to prevent the misuse, disclosure, or matching of personal data without the consent of the subject individual or the commissioner. Certain exemptions allow authorities to transfer personal data to a PRC body for safeguarding the security, defense, or international relations of the SAR and for the prevention, detection, or prosecution of a crime. During the first half of the year, the commissioner investigated 563 complaints. Of the 383 completed investigations, 18 were found to have violations, 278 cases were either rejected or resolved through mediation without use of the commissioner's formal power of investigation, 11 were resolved or rejected after formal investigation, and 76 were withdrawn or found not pursuable.

In February and March, there were reports that Police Force and Fire Services Department data were leaked on to the Internet because officers used computers equipped with a file-sharing program. The police agreed to implement recommendations from the PCPD to prevent further data leaks.

The privacy commissioner ordered some private companies and a public school to cease using biometric technology to record attendance, on the grounds that such methods were "excessive." The commissioner did not declare biometric enrollment unlawful but stressed the need for fairness and consent by employees. Companies responded by calling for clearer regulation on the use of biometric technology.

The use of covert surveillance and the interception of telecommunications and postal communications can be granted only to prevent or detect "serious crime" or protect "public security." A 2006 law established a two-tiered system for granting approval for surveillance activities, under which surveillance of a more intrusive nature requires the approval of a judge, and surveillance of a less intrusive nature requires the approval of a senior law-enforcement official. Applications to intercept telecommunications must involve crimes with a penalty of at least seven years' imprisonment, while applications for covert surveillance must involve crimes with a penalty of at least three years' imprisonment or a fine of at least HK\$ one million (approximately \$128,000). In 2008, 1,719 interceptions and 205 surveillances were authorized, leading to 603 arrests. There were 11 reported violations of the Communications and Surveillance Ordinance, including one report that information that might be subject to legal professional privilege was inadvertently intercepted.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice.

The Code of Ethics of the Hong Kong Journalists Association (HKJA) states “a journalist shall not lend himself/herself to the distortion or suppression of the truth because of advertising or other considerations.” However, reports of media self-censorship continued during the year. Most media outlets were owned by businesses with interests on the Mainland, which led to claims that they were vulnerable to self-censorship, with editors deferring to the perceived concerns of publishers regarding their Mainland business interests. In its 2008 report, Freedom House changed its description of press freedom in the SAR from “free” to “partly free.” A July poll found that 49 percent of those polled believed the media practiced self-censorship.

During the year the HKJA expressed regret that Esquire magazine removed 16 pages from a feature story on the 1989 Tiananmen massacre in its June issue. Two senior managers in the magazine’s parent company hold positions in Mainland political consultative congresses, one at the provincial and one at the national level.

Television Broadcasts (TVB), one of the SAR’s two free-to-air television stations, faced criticism at a public hearing held by the Broadcasting Authority as part of the station’s midterm license review that it deliberately downplayed coverage of the June 4 candlelight vigil to commemorate the Tiananmen massacre. TVB management countered that more than a third of the day’s 6 p.m. news broadcast was devoted to the vigil and that the vigil was the lead story on the 11 p.m. broadcast.

In February bodyguards for the student daughter of a foreign country’s leader assaulted two journalists outside her residence. Several editorials, journalists, and democratic legislators condemned the decision not to prosecute the bodyguards. In a separate incident, the student’s mother was not prosecuted for a January assault on a photographer after the PRC authorities ruled that she enjoyed diplomatic immunity.

Journalists and politicians across the political spectrum condemned the September 4 detention and reported beating of three SAR journalists covering protests in Xinjiang.

The government ended uncertainty regarding the future of government-owned broadcaster Radio Television Hong Kong (RTHK) by announcing that it would remain a government entity staffed by civil servants. The RTHK staff, union, activists, and media expressed concerns about the relationship between a new advisory board, to be appointed solely by the SAR’s CE, and the editorial independence of RTHK news and programming. While the government stated that independence will be protected in a new charter, and the director of broadcasting said that final editorial decisions would lie with him, there were concerns that the political clout of committee members, as well as the committee’s oversight of the station’s budget, might allow it to influence editorial policy.

International media organizations operated freely. Foreign reporters needed no special visas or government-issued press cards. The independent media were active and expressed a wide variety of views without restriction.

Internet Freedom.—There were no government restrictions on access to the Internet; there was some monitoring of the Internet to combat sexual exploitation of children (see section 6, Children). Commercial Internet service was widely available, including a number of government-supplied wireless (WiFi) “hot spots” and public and commercial venues in which WiFi or other access was provided at no charge to visitors and customers. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics for 2008, approximately 67 percent of the SAR’s inhabitants used the Internet.

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

Some scholars suggested Hong Kong-based academics practiced some self-censorship in their China-related work to preserve good relations and research and lecturing opportunities in the Mainland.

b. Freedom of Peaceful Assembly and Association.—*Freedom of Assembly.*—The law provides for freedom of assembly and association, and the government generally respected these rights in practice. The government routinely issued the required permits for public meetings and demonstrations.

Approximately 150,000 persons joined the annual vigil commemorating the June 4 Tiananmen massacre, the highest turnout in many years and the largest such event anywhere in China. Approximately 50,000 persons joined the annual July 1 democracy march. Both events were conducted peacefully.

On August 14, the High Court (Court of First Instance) granted a judicial review to a shipowner who was prevented from taking activists to the Diaoyu Islands in May. The Marine Department stopped three attempts by the “Action Committee for Defending the Diaoyu Islands” from traveling to the disputed waters (the Japanese claim the islands as the Senkakus). The government claimed its decision rested on safety concerns. Previous trips by the Action Committee to the Diaoyus in similar vessels had been permitted.

On August 21, the High Court (Court of First Instance) found that the removal of a pro-Tibetan protest led by student activist Christina Chan Hau-man during the Olympic Torch relay May 2008 was justified. Officers protecting Chan from counter-demonstrators felt they could not adequately guarantee the safety of Chan’s group, spectators, and the police themselves. The court also ruled Chan’s protest was both lawful and peaceful.

Freedom of Association.—In the first half of the year, 1,195 societies were registered or exempted from registration under the Societies Ordinance. No applications were rejected by the police.

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

Societal Abuses and Discrimination.—No major societal abuses or acts of religious discrimination, including anti-Semitic acts against the small Jewish community, were reported during the year.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The law provides residents freedom of movement, freedom of emigration, and freedom to enter and leave the territory, and the government generally respected these rights in practice, with some prominent exceptions. Under the “one country, two systems” framework, the SAR continued to administer its own immigration and entry policies and made determinations regarding claims under the Convention Against Torture (CAT) independently.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing temporary permission to enter the SAR and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The High Court (Court of Appeal) dismissed an appeal by Falun Gong practitioners who challenged a 2003 decision by the Immigration Department to bar from entry four activists traveling from Taiwan. While affirming the decision, the court expressed concern at the Security Bureau’s (which oversees the Immigration Department) destruction of relevant documents that may have shed light on the decision, describing the action as a breach of the government’s duty of “full and frank disclosure.”

In a number of cases, persons traveling for reasons that did not appear to contravene the law were refused entry by the Immigration Department. The Immigration Department, as a matter of policy, declined to comment on individual cases. Activists, some legislators, and others contended the refusals, usually of activists or others holding critical views of the Mainland, were made at the behest of the PRC authorities. The Security Bureau countered that, while the Immigration Department exchanges information with other immigration authorities, including the Mainland, it makes its decisions independently. In response to a June 3 question from the LegCo, the secretary for security stated the Immigration Department “does not have a ‘black list’ of persons not allowed to enter the SAR.” However, the media quoted the secretary as telling LegCo that the Immigration Department did maintain a “surveillance list.”

A number of activists traveling to participate in events relating to June 4 were denied entry. Danish sculptor Jens Galschiot was refused entry on May 30. Xiang Xiaoli, a veteran of the June 4 movement, was denied entry on June 3. Three activists invited to attend a City University forum on June 4 were denied entry. June 4 veterans Wang Dan and Wang Juntao applied for and were denied Hong Kong visas by a PRC diplomatic post (overseas, visas for Hong Kong are issued by PRC diplomatic posts). Another June 4 veteran, Yang Jianli, was refused entry to Hong Kong in May.

Most residents easily obtained travel documents from the SAR government. However, the PRC authorities did not permit some Hong Kong human rights activists and most prodemocracy legislators to visit the Mainland. Eleven incumbent legislators have been denied “Home Return Permits” to visit the Mainland.

On occasion some of these legislators were permitted to visit the Mainland. For example, in May a 25-member LegCo delegation visited Guangdong Province in the

PRC. Eleven members of the delegation were associated with the SAR's democracy movement (pan-democrats), including six without Home Return Permits. While 12 pan-democrats were invited to join a September LegCo delegation to Sichuan Province, only two joined. The media reported pan-democratic leaders expressed unhappiness that some legislators in the caucus were not invited but denied there was a boycott.

Government policy was to repatriate undocumented migrants who arrive from the Mainland, and authorities did not consider them for refugee status. As of July 31, 5,184 immigration offenders and illegal immigrants were repatriated to the Mainland. The government does not recognize the Taiwan passport as valid for visa endorsement purposes, although convenient mechanisms exist for Taiwan passport holders to visit Hong Kong.

The law does not provide for, and the government did not use, forced exile.

Protection of Refugees.—The SAR is not a party to the 1951 Convention relating to the Status of Refugees or its 1967 Protocol and has no temporary protection policy. The director of immigration has discretion to grant refugee status or asylum on an ad hoc basis but only in cases of exceptional humanitarian or compassionate need. The Immigration Ordinance does not provide foreigners the right to have asylum claims recognized. The government's practice was to refer refugee and asylum claimants to a lawyer or the UNHCR. In November 2008 the UN Committee Against Torture expressed concern that there was "still no legal regime governing asylum and establishing a fair and efficient refugee status determination procedure."

The government in collaboration with nongovernmental organizations (NGOs) and on a case-by-case basis offered in-kind assistance, including accommodation, food, clothing, and other basic necessities as well as appropriate transport allowance, and counseling and medical services, to asylum seekers and torture claimants who were deprived of basic needs while their claims were being processed. As of June 30, approximately 3,772 persons were receiving assistance.

Those whose claims are pending have no legal right to work. They are also ineligible for training by either the Employees Retraining Board or Vocational Training Council. Applications to attend school or university are considered on a case-by-case basis, at the discretion of the Director of Immigration. In September the first such claimant was approved to attend university as a part-time "visiting student."

A March 2 High Court (Court of First Instance) decision ruled against the policy of charging claimants found to be working with "overstaying" on grounds that their release on recognizance constituted authority from the director of immigration to remain in the SAR. The government appealed the ruling, which reportedly resulted in an increase in illegal immigration cases. On November 11, the LegCo passed government-proposed amendments making it illegal for claimants—who are otherwise regarded as illegal immigrants by the government—to work or establish a business.

The UNHCR worked with potential host-country representatives to resettle persons designated as refugees.

In December 2008 the High Court ruled in favor of six applicants for relief from removal under the CAT. The applicants challenged the SAR's process for handling their applications in a December 2007 case, and the court found that the Immigration Department's process was not sufficiently "certain and accessible."

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

The right of residents to change their government peacefully is limited by the Basic Law, which provides for the selection of the CE by an 800-person election committee (composed of individuals who are directly elected, indirectly elected, and appointed). The Basic Law provides for the direct election of 30 of the 60 LegCo members. The other 30 seats in the LegCo are elected by 28 functional constituencies (FCs), which represent key economic and social sectors. As of 2008 the 28 FCs represented fewer voters than the electorate in a single geographic constituency. The vast majority of FC voters are represented by the three largest FCs, while the four smallest have less than 200 voters. FCs set their own voting rules, with some allowing heads of corporations to vote on behalf of their companies. Persons with interests in more than one sector represented by an FC may be able to cast three or more votes (one in their geographic constituency and one in each FC for which they meet eligibility requirements). The High Court (Court of First Instance) struck down a legal challenge to corporate voting December 10, ruling that the current election systems did not contravene the Basic Law.

District Councils are responsible for advising the government on matters affecting the well-being of district residents, the provision and use of public facilities, and the use of public funds allocated for local public works and community activities. The

District Council Ordinance gives the CE authority to appoint 102 of the 529 district councilors, and he exercised this power in practice.

The SAR sends 36 deputies to the NPC and has 126 delegates in the Chinese People's Political Consultative Conference.

The approval of the CE, two-thirds of LegCo, and two thirds of the SAR's delegates to the Mainland's NPC are required to place an amendment of the Basic Law on the agenda of the NPC, which has the sole power to amend the Basic Law.

In June the LegCo passed the Voting by Imprisoned Persons Bill, which guaranteed voting rights to prisoners.

Elections and Political Participation.—In 2007 the CE Election Committee selected incumbent Donald Tsang Yam-kuen, and the PRC's State Council formally appointed him. In September 2008 voters in five geographic constituencies elected 30 legislators, half of the total LegCo, in elections that were generally free and fair. A record number of candidates, both party affiliated and independent, contested the elections. Of the 30 FC seats, 14 returned uncontested.

In the first six months of the year, the ICAC received 209 election-related complaints. Of these, 188 were under investigation, nine were deemed nonpursuable, and 12 were found to be unsubstantiated.

The Basic Law prohibits the LegCo from putting forward bills that affect public expenditure, political structure, or government policy. Bills that affect government policy cannot be introduced without the CE's written consent. The government has adopted a very broad definition of "government policy" to block private member bills, and the president of the LegCo upheld the government's position. When private member bills are considered, passage requires separate majorities among members of both the geographical constituencies and the FCs.

Seven of the 30 executive councilors (cabinet ministers and "nonofficial" councilors) were women. Seven of the 30 directly elected LegCo members were women, and women held four of the 30 FC seats. Women made up between 17 and 23 percent of the membership in the major political parties. Four political parties or movements represented in the LegCo were headed by women, and several women were party vice chairs. Four of the 22 most senior government officials were women.

There is no legal restriction against non-Chinese running for electoral office or participating in the civil service, although most elected or senior appointed positions require that the office holder have legal right of abode only in the SAR. There were no members of ethnic minorities in the LegCo. The government regards ethnic origin as irrelevant to civil service appointment and does not collect data on the number of nonethnic Chinese serving in the civil service. It was believed there were a number of ethnic minorities in senior civil service positions. The requirement that civil servants pass qualifications in both English and Chinese meant that most non-native speakers of Chinese failed to qualify.

Section 4. Official Corruption and Government Transparency

There were isolated reports of government corruption, and the government sought to combat official corruption through the Prevention of Bribery Ordinance and the ICAC.

In the first half of the year, the ICAC received 498 reports of corruption involving government institutions or personnel. Of that total, 223 were under investigation, 164 were deemed nonpursuable, and 111 were found to be unsubstantiated.

There are no legal protections for whistleblowers. In an April submission to the LegCo, the government argued that existing procedures protected staff from being penalized for making complaints or suggestions "in good faith" and that those reporting crime or corruption were also protected under the law.

The SAR requires the 27 most senior civil service officials to declare their financial investments annually and the approximately 3,100 senior working-level officials biennially. Policy bureaus may impose additional reporting requirements for positions seen as having a greater risk of conflict of interest.

There is no freedom of information legislation. An administrative code on Access to Information serves as the framework for the provision of information by government bureaus and departments, and the ICAC. However, they may refuse to disclose information if disclosure would cause or risk causing harm or prejudice in several broad areas: national security and foreign affairs (which are reserved to the central government); immigration issues; judicial and law enforcement issues; direct risks to individuals; damage to the environment; result in improper gain or advantage; management of the economy; management and operation of the public service; internal discussion and advice; public employment and public appointments; research, statistics and analysis; third party information; business affairs; premature requests and information on which legal restrictions apply. Political inconvenience or the potential for embarrassment are not a justifiable basis for withholding infor-

mation. In its annual report, the Office of the Ombudsman reported receiving 21 code-related complaints, up from 16 in 2008. The report expressed concern at “instances of departments refusing information requests without providing any reasons or with reasons not specified in the code.” The ombudsman also observed instances of “gross misunderstanding or misinterpretation of the code or its spirit.” In its annual report, the HKJA called on the government to pass a formal freedom of information law.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views. Prominent human rights activists critical of the central government also operated freely and maintained permanent resident status in the SAR.

During the year the government prepared independent submissions and responses to queries from UN bodies.

There is an Office of the Ombudsman and an Equal Opportunity Commission (EOC), both appointed by the government but independent in their operations. Both organizations operated without interference from the government and published critical findings in their areas of responsibility.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law provides that all residents are equal, and the government enforced this in practice. The EOC is responsible for implementing the Sex Discrimination Ordinance (SDO), the Disability Discrimination Ordinance, the Family Status Discrimination Ordinance, and the Race Discrimination Ordinance.

Women.—Rape, including spousal rape, is criminalized under the law, and police enforced the law effectively. From January to June, 52 rape cases and 647 indecent assault cases were reported to the police.

The government regarded domestic violence against women as a serious concern and took measures to prevent and prosecute offenses. It effectively enforced criminal statutes prohibiting domestic violence against women and prosecuted violators. Between January and June, there were 2,311 cases of domestic violence involving heterosexual partners, of which 1,193 were found to be criminal and were investigated by the police. The Domestic Violence Ordinance allows victims to seek a three-month injunction, extendable to six months, against an abuser. The ordinance does not criminalize domestic violence directly, although abusers may be liable for criminal charges under other ordinances, including the Crime Ordinance and the Offences Against the Person Ordinance. The government enforced the law and prosecuted violators, but sentences typically consisted only of injunctions or restraining orders.

In August 2008 the Domestic Violence (Amendment) Ordinance took effect. It expands the scope of previous law to cover molestation between married couples and heterosexual cohabitants, former spouses or cohabitants, and immediate and extended family members. The revised law provides better protection for victims under age 18, allowing them to apply for an injunction in their own right, with the assistance of an adult guardian, against molestation by their parents, siblings, and specified immediate and extended family members. The new law also empowers the court to require the abuser to attend an antiviolence program. In cases in which the abuser caused bodily harm, the court may attach an authorization of arrest to an existing injunction, and both injunctions and authorizations for arrest can be extended to two years.

The government maintained programs that provide intervention and counseling to batterers. There were eight Integrated Family Service Centers and Family and Child Protective Services Units, which offered services to domestic violence victims and batterers. The government also continued its public information campaign to strengthen families and combat violence and increased public education on the prevention of domestic violence.

Prostitution is legal, but there are laws against activities such as public solicitation, causing or procuring another to be a prostitute, living on the prostitution of others, or keeping a vice establishment.

The SDO prohibits sexual harassment or discrimination on the basis of sex, marital status, and pregnancy. The law applies to both males and females. The SDO also provides for the establishment of the EOC to work towards the elimination of discrimination and harassment as well as to promote equal opportunity between men and women. As of August 31, the EOC had handled 355 complaints under the SDO.

Couples and individuals had the right to decide the number, spacing, and timing of children and had the information and means to do so free from discrimination. Access to information on contraception, and skilled attendance at delivery and in postpartum care were widely available. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections.

According to 2008 statistics compiled by the Census and Statistics Department, approximately 30 percent of managers and administrators and approximately 38 percent of professionals were women, with female managers earning comparable pay to males. Approximately 73 percent of clerks, 53 percent of service workers and shop sales workers, and 64 percent of unskilled workers were women. Census Bureau statistics showed 48 percent of postsecondary degree holders were women, with women holding 59 percent of postgraduate program teaching positions and 43 percent of postgraduate program research positions.

While the law treats men and women equally in terms of property rights in divorce settlements and inheritance matters, in practice women faced discrimination in employment, salary, welfare, inheritance, and promotion. Women reportedly formed the majority of the working poor and those who fall outside the protection of labor laws.

The government established a Women's Commission as an advisory body for policy making, while a number of NGOs were also active in raising problems of societal attitudes and discrimination against women.

Children.—All Chinese nationals born in Hong Kong or abroad to parents of whom at least one is a PRC national Hong Kong permanent resident acquire both PRC citizenship and Hong Kong permanent residence, which latter status allows right of abode in the SAR. Children born in Hong Kong to non-Chinese parents, at least one of whom is a permanent resident, acquire permanent residence and qualify to apply for naturalization as PRC citizens. Registration of all such statuses was routine.

From January to June, there were 819 cases of crimes against children reported to police: 355 involved physical abuse (referring to victims younger than 14 years of age), and 464 involved sexual abuse (referring to victims younger than 17 years of age). The Domestic Violence Ordinance mandates substantial legal penalties for acts of child abuse such as battery, assault, neglect, abandonment, sexual exploitation, and child sex tourism, and the government enforced the law.

The government provided parent education programs, including instruction on child abuse prevention, in all 50 of the Department of Health's maternal and child health centers. It also provided public education programs to raise awareness of child abuse and alert children about how to protect themselves. The Social Welfare Department provided child psychologists for its clinical psychology units and social workers for its family and child protective services units. The police maintained a child abuse investigation unit and a child witness support program. A law on child-care centers helped prevent unsuitable persons from providing child care services.

Social service providers and the media remained concerned at the rise in "compensated dating" among minor girls. The majority of cases involved teenage girls, both above and below the age of consent, who advertised escort services that might include sex, either to support themselves or for extra pocket money. Some women and girls involved in the trade reported being beaten or abused by clients. On July 27, a man was sentenced to life imprisonment for the April murder and dismemberment of a 16-year-old girl he met through a compensated dating Web site.

In response to this trend, police continued monitoring Internet chat rooms and Web sites used by both individuals and syndicates to advertise services, with officers assigned to gather evidence against the operations and determine the techniques used by syndicates to recruit the girls. Authorities posted warnings on five internet forums and begun working with forum hosts on ways to prevent their being used for compensated dating advertisements. In April police concluded "Operation Whalediver," arresting 20 girls ages 13 to 16 and six persons accused of being online pimps. By September the media reported that police made 22 arrests and referred 13 girls to the Social Welfare Department.

The legal age of consent for heterosexuals is 16. Under the Crimes Ordinance, a person having "unlawful sexual intercourse" with a victim under 16 is subject to five years' imprisonment, while having unlawful sexual intercourse with a victim under 13 results in imprisonment for life.

The Prevention of Child Pornography Ordinance makes it an imprisonable offense to possess, produce, copy, import, or export pornography involving a child under 18 years of age or to publish or cause to be published any advertisement that conveys or is likely to be understood as conveying the message that any person has published, publishes, or intends to publish any child pornography. The penalty for cre-

ation, publication, or advertisement of child pornography is eight years' imprisonment, while possession carries a penalty of five years' imprisonment.

Trafficking in Persons.—There is no consolidated antitrafficking law; however, various laws and ordinances allow law enforcement authorities to take action against traffickers.

The SAR was a point of transit and destination for persons trafficked for sexual exploitation from the Mainland and Southeast Asia. Sex trafficking cases detected by the government, NGOs, and foreign consulates usually involved women recruited from rural areas of the Mainland, Thailand, Indonesia, or the Philippines to work in the SAR. While some had legal work visas, many arrived on 14-day tourist visas with the intention of working illegally. A small number were believed to have traveled on forged documents. The majority of these women came to the SAR believing they would be employed in restaurants, bars, and hotels, but upon arrival they were forced into prostitution through debt bondage or physical coercion. Syndicates sometimes held passports and travel documents until debts were paid. A smaller number came illegally, either on their own or were recruited to work in the legal sex trade, but fell victim to trafficking by their recruiters or organized crime after their arrival.

Some foreign domestic workers, particularly those from Indonesia and the Philippines, faced high levels of indebtedness assumed as part of the terms of employment, which could in some cases lead to situations of debt bondage if unlawfully exploited by recruiters or employers. Many Indonesian domestic workers earned the minimum wage or less and entered into contracts requiring them to pay as much as HK\$21,000 (approximately \$2,700) to their Indonesian recruitment agency within their first seven months of employment, amounting to roughly 90 percent of a worker's monthly salary if they were making minimum wage. Although these fees are lawful, reports indicated they may make some workers more vulnerable to labor trafficking. While these fees were imposed by Indonesia-based recruitment agencies, some Hong Kong-licensed recruitment agencies reportedly were involved. Some Hong Kong agencies reportedly confiscated passports, employment contracts, and ATM cards of domestic workers upon arrival and withheld them until the debt had been completely repaid, factors that also may facilitate labor trafficking.

Provisions in the Immigration Ordinance, the Crimes Ordinance, the Employment Ordinance, and other relevant laws enable law enforcement authorities to take action against trafficking in persons. The Security Bureau oversees the police, customs, and immigration departments, enforces antitrafficking laws, and combats migrant trafficking. The courts can impose heavy fines and prison sentences of up to 14 years for activities such as arranging passage of unauthorized entrants, arranging entrance or exit of a person for the purpose of prostitution, and aiding and abetting any person to use forged, false, or unlawfully obtained travel documents.

However, the government's interpretation of trafficking continued to focus on illegal migration and smuggling. The law does not classify as a trafficking victim a voluntary migrant who, upon arrival, is faced with a situation of labor trafficking or sex trafficking. Although law enforcement officials received special training on handling and protecting victims and vulnerable witnesses, including victims of trafficking, they said it was difficult to identify trafficking victims from among illegal immigrants, particularly when victims declined to identify themselves or assist in investigations.

There were no reports that government officials participated in, facilitated, or condoned trafficking, and no officials were prosecuted, convicted, or sentenced to imprisonment or were removed from their duties for trafficking during the year.

NGOs contended that the government did not pursue cases in which workers reported that they received less than the legal minimum wage or that their travel documents were unlawfully held. The government made legal aid available to those taking legal action against an employer and immunity from prosecution for those assisting in the investigation and prosecution of traffickers. The Social Welfare Department and local NGOs provided social services to victims of trafficking, but victims are not permitted to work. Trafficking victims assisting in a prosecution were given a stipend by the government regardless of whether they ultimately served as a prosecution witness. The government tried to prevent trafficking by distributing pamphlets and by other public information campaigns, in a wide range of languages, on workers' rights.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The law prohibits discrimination against persons with physical and mental disabilities in employment, access to health care, or the provi-

sion of other state services, and the government effectively enforced these provisions.

The Social Welfare Department, directly or in coordination with NGOs and employers, provided a range of services and training to assist persons with disabilities in finding work commensurate with their abilities. As of March approximately 15,000 persons were participating in these programs.

As of March the government employed 3,223 civil servants with disabilities, including 15 at the senior directorate grade, in a total workforce of 155,128.

Instances of discrimination against persons with disabilities persisted in employment, education, and the provision of some public services. The Disability Discrimination Ordinance calls for improved building access and sanctions against those who discriminate. Despite inspections and the occasional closure of noncompliant businesses under the Buildings Ordinance, access to public buildings (including public schools) and transportation remained a serious problem for persons with disabilities.

The EOC sponsored a variety of activities to address discrimination against persons with disabilities, including offering youth education programs, distributing guidelines and resources for employers, carrying out media campaigns, and cosponsoring seminars and research.

National/Racial/Ethnic Minorities.—Although 95 percent ethnic Chinese, the SAR is a multiethnic society with persons from a number of ethnic groups recognized as permanent residents with full rights under the law. Discrimination based on race is prohibited by law, and the EOC oversees implementation and enforcement of the 2008 Race Discrimination Ordinance (RDO). The Race Relations Unit, which is subordinate to the Constitutional and Mainland Affairs Bureau, served as secretariat to the Committee on the Promotion of Racial Harmony and implemented the committee's programs. The unit also maintained a hotline for inquiries and complaints concerning racial discrimination.

A June report by the Census and Statistics Department showed that acceptance of certain ethnic minorities by Chinese citizens was notably lower than acceptance of noncitizen Chinese, Caucasians, Japanese, or Koreans as tenants, employees, or classmates for their children.

The RDO and various implementing regulations entered into force on July 10, when the EOC was empowered to handle complaints. The Code of Practice (along with selected other EOC materials) was available in Hindi, Thai, Urdu, Nepali, Indonesian, and Tagalog in addition to Chinese and English.

In its "Concluding Observations" issued August 28, the UN Committee on the Elimination of Racial Discrimination (CERD) recommended "that all government functions and powers be brought within the scope of the RDO" and "the adoption of an equality plan with a view to ensuring the effective implementation of the law." The CERD also recommended that "indirect discrimination with regard to language, immigration status, and nationality be included among the prohibited grounds of discrimination in the RDO." In response the government stated that protection under the RDO applies equally to all persons in the SAR. Conceding that "the RDO does not specifically cover all functions of the government," the government argued the RDO does regulate the government with regard to employment, education, and provision of services. The government also stressed that there were organizations that deal with complaints against the government, and the government is subject to both the Bill of Rights Ordinance and court rulings on discrimination. Previously, the government argued that broadening the law could affect the government's ability to function, including in areas meant to correct societal inequities, and might open the government up to litigation.

While English and Chinese are the two official languages, persons not fluent or literate in Cantonese faced tremendous challenges in seeking employment and in choice of education. The Constitutional and Mainland Affairs Bureau sponsored a "Cross-Cultural Learning Program for Non-Chinese Speaking Youth" through grants to NGOs. In its "Concluding Observations," the CERD expressed concern that, despite the provision of a Supplementary Guide to the Chinese language curriculum, no official education policy for teaching Chinese as a second language in the SAR had been adopted. The CERD recommended that a policy on Chinese teaching for non-Chinese speaking students be developed in consultation with teachers as well as the communities concerned and that efforts to improve the quality of Chinese-language education for immigrant children should be intensified.

In response the government stated its policy to integrate non-Chinese students into the regular education system. The government also noted it had provided a special grant for designated schools with a critical mass of non-Chinese students to develop their own programs and to share best practices with other schools, as well as to develop supplementary curriculum materials and to set up the Chinese Language Support Centers to provide after-school programs.

The government provided HK\$ eight million (approximately \$1 million) to sponsor NGOs to set up four support service centers that teach ethnic minority groups special skills, including English and Cantonese, and HK\$16 million (\$2 million) per year to fund their annual operating costs. The first such center, International Social Service's HOPE Support Service Center for Ethnic Minorities, opened August 29. The fourth, operated by Hong Kong Christian Service, opened September 5.

Activists reported that citizens of South Asian descent faced discriminatory treatment from police on patrol, including repeated checks of identity documents and the use of disparaging terms for South Asians. South Asians carrying large amounts of money were on some occasions treated as suspicious and asked to explain where the money came from.

Activists and the government disputed whether new immigrants from the Mainland should be considered as a population of concern under antidiscrimination legislation. While the government argued they should not, activists contended language barriers (many new immigrants, although able to read Chinese, did not speak the prevailing Cantonese dialect) and other factors put these new immigrants at a disadvantage. While concerns have been raised that new immigrants do not qualify to receive social welfare benefits until they have resided in the SAR for seven years, the courts have upheld this legal standard. Such immigrants can apply on a case-specific basis for assistance.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—There are no laws criminalizing same-sex relationships. In 2005 the High Court (Court of First Instance) ruled that maintaining an age of consent for male-male relations at 21 rather than 16 violated the Bill of Rights Ordinance. In 2006 the Law Reform Commission began a review of sexual offenses in common and statute law; this review continued. In the interim, enforcement of the law was in accordance with the 2005 decision. There are no specific laws governing age of consent for female-female relations.

There were no reports of societal violence or official discrimination based on sexual orientation. On December 16, the LegCo amended the Domestic Violence Ordinance (renamed the Domestic and Cohabitation Relationships Violence Ordinance) to cover domestic violence concerns among same-sex partners.

A number of lesbian, gay, bisexual, and transgender (LGBT) organizations and LGBT-related organizations existed and held events in the SAR. Since 1998 the government has provided more than HK\$5 million (approximately \$650,000) for "worthwhile community projects which aim at promoting equal opportunity on grounds of sexual orientation or gender identity, or seek to provide support services for sexual minorities" through its Equal Opportunities (Sexual Orientation) Funding Scheme. In November the Lesbian and Gay Film Festival celebrated its 20th anniversary, while the LGBT-oriented Pride Parade was held for a second year.

Other Societal Violence or Discrimination.—There were no reports of societal violence or discrimination against persons with HIV/AIDS.

Section 7. Worker Rights

a. The Right of Association.—The law provides for the right of association and the right of workers to establish and join organizations of their own choosing. Trade unions must register under the Trade Unions Ordinance and must have a minimum membership of seven persons for registration. At the end of 2008, there were 796 registered trade unions, consisting of 752 employee unions, 19 employers' associations, and 25 mixed organizations of employees and employers. During the first half of the year, 13 new unions were registered and three unions were deregistered upon request.

Government statistics indicated that, as of the end of 2008, there were 708,953 salaried employees and wage earners claiming affiliation with a union, totaling 21.5 percent of the workforce.

The 1997 Employment and Labor Relations (Miscellaneous Amendments) Ordinance bans the use of union funds for political purposes, requires the CE's approval before unions can contribute funds to any trade union outside of the SAR, and restricts the appointment of persons from outside the enterprise or sector to union executive committees.

Work stoppages and strikes are legal. There are some restrictions on this right for civil servants. Although there is no legislative prohibition of strikes, in practice most workers had to sign employment contracts that typically stated that walking off the job is a breach of contract, which could lead to summary dismissal. In addition, there is no legal entitlement to reinstatement in the case of unfair dismissal. Four strikes, collectively involving 655 workers, were held during the first half of the year.

b. The Right to Organize and Bargain Collectively.—The law provides for the right to organize, and this right was implemented in practice; however, it does not guarantee the right to collective bargaining. The 1997 Employment and Labor Relations (Miscellaneous Amendments) Ordinance does not provide a legal framework for trade unions to engage employers in collective bargaining. In all but a few trades, unions were not powerful enough to force management to engage in collective bargaining. A motion supported by union activists in the LegCo that called on the government to promote collective bargaining and legislate on the right to collective bargaining failed due to opposition by the government and business representatives.

The government did not engage in collective bargaining with civil servants' unions. According to an International Trade Union Congress report, only 1 percent of the workforce was covered by collective agreements, and these were not legally binding.

The Workplace Consultation Promotion Unit in the Labor Department facilitated communication, consultation, and voluntary negotiation between employers and employees. Tripartite committees for each of the nine sectors of the economy included representatives from some trade unions, employers, and the Labor Department.

There is no provision guaranteeing reinstatement of workers dismissed because of their trade union membership.

There are no export processing zones in the SAR.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The Employment of Children Regulations prohibits employment of children under the age of 15 in any industrial establishment. The regulations limit work hours in the manufacturing sector for persons 15 to 17 years of age to eight hours per day and 48 hours per week between 7 a.m. and 7 p.m. They also prohibit overtime in industrial establishments with employment in dangerous trades for persons less than 18 years of age.

Children 13 and 14 years of age may work in certain nonindustrial establishments, subject to conditions aimed at ensuring a minimum of nine years of education and protection of their safety, health, and welfare. The Labor Department conducted regular workplace inspections to enforce compliance with the regulations. During the first half of the year, the Labor Department conducted 78,441 inspections. Three employers were convicted of offenses involving employment of children 13 to 14 years of age without written parental consent and valid school attendance certificates. Fines were between HK\$1,000 and HK\$4,000 (approximately \$130 to \$515).

e. Acceptable Conditions of Work.—There is no statutory minimum wage except for domestic workers of foreign origin. Aside from a small number of trades where a uniform wage structure exists, wage levels customarily are fixed by individual agreement between employer and employee and are determined by supply and demand. Some employers provided workers with various kinds of allowances, medical treatment, and subsidized transport. Two-income households were the norm. There are no regulations concerning working hours, paid weekly rest, rest breaks, or compulsory overtime. Workweeks of up to 60 hours and more were not uncommon.

While the government provides assistance to many low-wage earners through the Comprehensive Social Security Assistance scheme and housing assistance programs, workers and labor unions contended wages in many low-level positions were insufficient to guarantee workers a decent standard of living.

On July 8, the government's Minimum Wage Bill had its first reading in the LegCo. The bill would create a minimum wage (but not set its rate) and establish a Minimum Wage Commission which would advise the CE on the rate to be set. On February 7, the government appointed a Provisional Minimum Wage Commission made up of academics, employers, and organized labor representatives, and government economic and labor officials. At year's end both the bill and the wage rate remained under discussion.

Unionists alleged workers increasingly were tricked by employers into signing contracts that changed their terms of employment to "self-employed," and thus they were not entitled to employer-provided benefits such as paid leave, sick leave, medical insurance, workers' compensation, or Mandatory Provident Fund payments.

The Occupational Safety and Health Branch of the Labor Department is responsible for safety and health promotion, enforcement of safety management legislation, and policy formulation and implementation. The Factories and Industrial Undertakings Ordinance, the Occupational Safety and Health Ordinance, the Boilers and Pressure Vessels Ordinance, and their 35 sets of subsidiary regulations regulate safety and health conditions. During the first half of the year, the Labor Depart-

ment's Occupational Safety and Health Branch conducted 59,475 workplace inspections. There were 842 convicted summonses, resulting in fines totaling HK\$6.06 million (approximately \$780,000). In addition to prosecuting offenses under the safety legislation, the Labor Department also issued improvement notices requiring employers to remedy contraventions of safety laws within a specified period and suspension notices directing removal of imminent risks to life and limb in workplaces. During the first half of the year, 709 improvement notices and 41 suspension notices were served.

Although worker safety and health continued to improve, serious problems remained, particularly in the construction industry. In the first quarter of the year, the Labor Department reported 8,512 occupational injuries, including 2,842 classified as industrial accidents. In the same period, there were two fatal industrial accidents. Employers are required under the Employee's Compensation Ordinance to report any injuries sustained by their employees in work-related accidents. There is no specific legal provision allowing workers to remove themselves from dangerous work situations without jeopardy to continued employment.

The media reported on the danger of working on bamboo scaffolding. It cited a Labor Department study showing "falling from height" as the primary source of fatalities in the construction industry, with 8,000 workers injured and 149 killed between 1998-2007.

There are no laws restricting work during typhoon or rainstorm warning signals save a Labor Department recommendation that employers have only essential staff come to work during certain categories of typhoon or rainstorm warnings.

The minimum wage for foreign domestic workers was HK\$3,580 per month (approximately \$460). The standard workweek was 48 hours, but many domestic workers worked much longer hours. The standard contract law requires employers to provide foreign domestic workers with housing, worker's compensation insurance, travel allowances, and food or a food allowance in addition to the minimum wage, which together provided a decent standard of living. Foreign domestic workers can be deported if dismissed. After leaving one employer, workers have two weeks to secure new employment before they must leave the SAR. Activists contended this restriction left workers vulnerable to a range of abuses from employers. Workers who pursue complaints through legal channels may be granted leave to remain; however, they are not able to work, leaving them either to live from savings or to depend on charitable assistance.

Domestic workers were required to live with their employers (who do not always provide separate accommodation for the worker), which made it difficult to enforce maximum working hours per day or overtime.

The government contended that the "two-week rule" was necessary to maintain effective immigration control and prevent migrant workers from overstaying and taking up unauthorized work. Regarding maximum hours and rest periods, the government stated that the Employment Ordinance rules on these issues cover local and migrant workers. However, in its explanation of why live-in domestic helpers (both local and foreign) would not be covered by the anticipated statutory minimum wage, the government explained that "the distinctive working pattern—round-the-clock presence, provision of service-on-demand, and the multifarious domestic duties expected of live-in domestic workers—makes it impossible to ascertain the actual hours worked so as to determine the wages to be paid."

During the first six months of the year, seven employers were convicted for labor law maltreatment violations under the Employment Ordinance relating to the employment of foreign domestic workers. During the first seven months of the year, 86 foreign domestic workers filed criminal suits, 43 of which were against employers, for maltreatment including rape (five), indecent assault (four), and injury and serious assault (34).

MACAU

Macau, with a population of approximately 557,400, is a Special Administrative Region (SAR) of the People's Republic of China (PRC) and enjoys a high degree of autonomy, except in defense and foreign affairs, under the SAR's constitution the Basic Law. On July 26, the 300-member Electoral Commission selected Fernando Chui Sai-on as chief executive (CE) in an uncontested election, and Chui took office December 20. On September 20, in elections considered generally free and fair, voters elected 12 of the legislature's 29 members in direct elections based on geographical constituencies; of the other 17 members of the legislature, 10 are elected

indirectly, and seven are appointed by the CE. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, some problems remained, most notably limits on citizens' ability to change their government, reports of official corruption, and trafficking in persons.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and the government generally respected these rights. During the first half of the year, police examined eight cases of offenses against the “physical integrity” and two of “threat” against persons not in custody. Separately, the Commission for Disciplinary Control of the Security Forces and Services of Macau received two complaints, one of which was substantiated and forwarded to the Office of the Prosecutor for investigation. In 2008 there were 15 complaints of police brutality against persons in custody; four resulted in disciplinary proceedings, six were pending, and five were dismissed for lack of evidence.

Prison and Detention Center Conditions.—Prison and detention center conditions generally met international standards, and the government permitted monitoring visits by independent human rights observers. No such visits were made during the year. In 2008 prison authorities invited both local and international media to visit the prison and participate in workshops with inmates.

The prison has a 1,050-person designed capacity and during the first half of the year housed 961 inmates. In 2008 (the most recent available figures) there were 108 female prisoners and 21 juveniles (ages 16 to 17) in prison. An additional 31 juveniles were held in a separate facility run by the Young Offenders Institute.

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

Role of the Police and Security Apparatus.—Civilian authorities maintained effective control over the Public Security Police (general law enforcement) and Judiciary Police (criminal investigations), and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

Arrest Procedures and Treatment While in Detention.—Persons were apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official. Detainees were allowed access to a lawyer of their choice or, if indigent, to one provided by the SAR government. Detainees also were allowed prompt access to family members. Police must present persons in custody to an examining judge within 48 hours of detention. The examining judge, who conducts a pretrial inquiry in criminal cases, has a wide range of powers to collect evidence, order or dismiss indictments, and determine whether to release detained persons. The law provides that cases must come to trial within six months of an indictment. The criminal procedure code mandates that pretrial detention is limited to between six months to three years, depending on the charges and progress of the judicial system. According to judiciary figures, the standard pretrial detention in 2008 was 8.2 months. Judges often refused bail in cases where sentences could exceed three years.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected judicial independence in practice. The courts may rule on matters that are “the responsibility of the PRC government or concern the relationship between the central authorities and the SAR,” but before making their final judgment, which is not subject to appeal, the courts must seek an interpretation of relevant provisions from the National People's Congress (NPC) Standing Committee. When the Standing Committee makes an interpretation of the provisions concerned, the courts, in applying those provisions, “shall follow the interpretation of the Standing Committee.”

Both Portuguese and Chinese are official languages. The need to translate laws and judgments into both Chinese and Portuguese and a shortage of local bilingual lawyers and magistrates hampered the development of the legal system. There also was a severe shortage of judges.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right.

Defendants enjoy a presumption of innocence and have access to government-held evidence relevant to their cases and a right to appeal. Trials are public and are by jury except at the magistrate-court level. Defendants have the right to be present at their trials and to confront witnesses. They also have the right to consult with an attorney in a timely manner; public attorneys are provided for those who are financially incapable of engaging lawyers or paying expenses of proceedings. The law extends these rights to all residents.

The judiciary provides citizens with a fair and efficient judicial process; however, due to an overloaded court system, a period of up to a year often passed between filing a civil case and its scheduled hearing.

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

Civil Judicial Procedures and Remedies.—There is an independent and impartial judiciary for civil matters, and citizens have access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice. On June 26, the Strike Against Computer Crime Law passed. It criminalizes a range of cybercrimes and empowers the police, with a court warrant, to order Internet service providers to save and then provide a range of data. Some legislators expressed concern that the law grants the police authority to take these actions without court order under some circumstances.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice.

On February 26, in accordance with a requirement under Article 23 of the Basic Law, the Law on Safeguarding National Security entered into force. It criminalizes both committing and acts in preparation to commit: treason, secession, subversion of the PRC government, and theft of state secrets. The crimes of treason, secession, and subversion all specify the use of violence, and the government stated that the law would not infringe on peaceful political activism or media freedom.

Activists and some legislators expressed concern about the vagueness of “acts in preparation,” which they saw as possibly criminalizing a broad range of activities. Government officials maintained that, to be prosecuted as preparatory acts, the actions would need to meet tests already established under criminal law of both intention and actual capability to commit a violent act as defined under the law.

Activists and some legislators were also concerned about the use of “prying into” to define one type of illegally acquiring state secrets and the lack of an explicit “public interest defense” for journalists publishing classified information. There was also concern that the PRC’s broad definitions of state secrets, as well as its ability retroactively to declare formerly unclassified material to be secret, would impact enforcement of the law. The SAR government asserted that only persons in possession of secret information, which by definition should only be government officials, could be charged with revealing a secret. Journalists or others to whom such material was given (assuming they did not explicitly ask for it or offer to buy it) would not be held responsible. The government also stated that a person could not be held liable for revealing information not marked as classified. (The Law on Publications, which predates the Law on Safeguarding National Security, specifies that journalists do not have the right to publish material known to be classified as a state secret.) By year’s end no one had been charged with a crime under the new law.

The independent media were active and expressed a wide variety of views without restriction, and international media operated freely. Major newspapers were heavily subsidized by the government and tended to follow closely the PRC government’s policy on sensitive political issues, such as Taiwan; however, they reported freely on the SAR government, including reports critical of the government.

The media reported that activists who attempted to run an advertisement critical of “people from big business clans taking office,” a reference to the uncontested election of Chief Executive Fernando Chui Sai-on, had their fundraising bank account closed. The bank told local media, “the bank is entitled to terminate a bank account if it considers the use that a client is making, or is planning to make, of a bank account is detrimental to the bank.” The money in the account was returned to the account holder. Activists alleged the account was closed under political pressure. No local media were willing to publish the advertisement.

Internet Freedom.—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Inter-

net, including by e-mail. According to International Telecommunication Union statistics for 2008, approximately 49 percent of the SAR's inhabitants used the Internet.

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

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The law provides for freedom of assembly, and the government generally respected this right in practice. The law requires prior notification, but not approval, of demonstrations.

Local opponents of the Law on Safeguarding National Security held protest activities, although protesters from Hong Kong were denied entry into the SAR on several occasions (see section 2.d.). However, in March a group of Hong Kong activists who had been permitted into the SAR staged a protest in front of the Government House. By law demonstrations may not be conducted within thirty yards of government, court, or police buildings, or in front of central government and consular missions to the SAR.

Freedom of Association.—The Basic Law and the Civil Code guarantee freedom of association. No authorization is required to form an association, and the only restrictions are that the organization not promote violence, crime, or disruption of public order. From January 2008 through June 2009, 458 associations were formed, and no applications were rejected.

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

Societal Abuses and Discrimination.—Relations among various religious groups were generally amicable. The Jewish population was extremely small, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. Persons denied entry into the SAR have the right to contact their consulate or other representative of their country, to have assistance with language interpretation, and to consult a lawyer. The Immigration Department cooperated with the UN High Commissioner for Refugees in handling refugees.

The law prohibits forced exile, and the government generally respected the law in practice.

The Internal Security Law grants the police the authority to prevent entry and to deport nonresidents who are regarded under the law as unwelcome, or who constitute a threat to internal security and stability, or who are regarded as suspected of transnational crimes. The police used this provision of law to prevent the entry of several persons who sought to participate in peaceful political activities, as well as persons participating in academic exchanges or journalism, particularly when the Law on Safeguarding National Security was under consideration as well as in the period immediately following passage of the law.

On March 9, Secretary for Security Cheong Kuoc-va told the media that immigration cases were decided on a case-by-case basis and denied the existence of a “black-list.”

On March 15, a delegation of 35 Hong Kong activists, including 14 legislators, traveled to the SAR. Thirty were admitted, but two legislators—Leung “Long Hair” Kwok-hung and Lee Cheuk-yan—along with three other activists were denied entry.

On June 2, Tiananmen-era activist Wu'erkaixi tried to enter the SAR to “turn himself in” to PRC authorities with the stated goals of forcing the PRC government into a dialogue regarding the Tiananmen massacre and to see his parents. As a Taiwan passport holder, Wu'erkaixi would normally be permitted visa-free entry into Macau, but he was refused entry and returned to Taiwan on June 3.

On December 19, two journalists were denied entry. One, planning to cover the 10th Anniversary of Macau's return to the PRC for the Hong Kong daily newspaper Ming Pao, told the media she was not informed of the reason she was denied entry. The Security Police, who oversee immigration, later told the media she posed a threat to public security. The Hong Kong Journalists' Association and the Hong Kong News Executive's Association condemned the decision.

A journalist, for Hong Kong's Next magazine, who was traveling with her family for vacation, was also barred from the SAR.

Also on December 19, Hong Kong legislator Long Hair Leung again was denied entry along with 14 other activists. They had intended to petition visiting PRC President Hu Jintao on universal suffrage in Hong Kong.

On December 20—Macau Foundation Day and the inauguration day of the new Chui administration—two activists with Hong Kong's Alliance in Support of Patriotic Democratic Movements in China were denied entry into Macau. They had intended to demonstrate for the release of Mainland Charter '08 activist Liu Xiaobo. Alliance activist Chui Pak-tai told the media he was physically abused by immigration officers, who then declined to allow him and fellow activist Richard Tsoi Yiu-cheong to file a complaint. Three other Alliance activists were permitted to enter the SAR but chose to depart with their colleagues.

In December 2008 a group of 24 Hong Kong activists, including nine legislators, was denied admission to the SAR. The group was traveling to participate in activities related to the then pending Article 23 national security legislation (see section 2.a.).

Protection of Refugees.—The law provides for the granting of asylum or refugee status in accordance with the 1951 Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. During the year there were five applications for refugee status.

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

The law limits citizens' ability to change their government.

Elections and Political Participation.—Only a fraction of citizens play a role in the selection of the CE. The 300-member Election Committee consists of 254 members elected from four broad societal sectors (which have a limited franchise) and 46 members chosen from among the SAR's legislators and representatives to the NPC and Chinese People's Political Consultative Congress. Following discussions within the sectors and their subordinate units responsible for selecting the Election Committee, exactly 254 candidates were nominated, thus constituting the Committee without an election. By virtue of securing 286 of the 300 nominating votes, and thus precluding any other candidate from winning the fifty nominations required to stand for election, former secretary for social affairs and culture Fernando Chui Sai-on ran unopposed for CE. He received 282 votes from the Election Committee on July 26 and was formally appointed by the PRC State Council as the third-term CE. Chui took office on December 20.

On September 25, the SAR also elected parts of its Legislative Assembly. Seven seats were filled by appointment by the CE; 10 indirectly elected legislators were returned uncontested after internal consultation among the four broad sectors that elect these seats. Sixteen electoral "slates" representing 123 candidates (the SAR does not have formal political parties for elections, and candidates form ad hoc rosters to contest elections) competed for the 12 directly elected seats.

There are limits on the types of legislation that legislators may introduce. The law stipulates that legislators may not initiate legislation related to public expenditure, the SAR's political structure, or the operation of the government. Proposed legislation related to government policies must receive the CE's written approval before it is submitted. The legislature also has no power of confirmation over executive or judicial appointments.

A 10-member Executive Council functions as an unofficial cabinet, approving draft legislation before it is presented in the Legislative Assembly. The Basic Law stipulates that the CE appoints members of the SAR Executive Council from among the principal officials of the executive authorities, members of the legislature, and public figures.

There are no registered political parties; politically active groups register as societies or companies. These groups are active in promoting their political agendas, and those critical of the government do not face restrictions. Such groups participated in protests over government policies or proposed legislation without restriction.

There were four women in the Legislative Assembly. Women also held a number of senior positions throughout the government, including the secretary for justice and administration, the second-highest official in the SAR government. Eleven of the SAR's 29 judges were women. Women made up almost 40 percent of the executive, more than 45 percent of the judicial, and more than 45 percent of the legislative branch work forces. There were three members of ethnic minorities in the Leg-

islative Assembly. One member of the Executive Council was also from an ethnic minority, as was the police commissioner.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, officials sometimes engaged in corrupt practices.

The Commission Against Corruption (CCAC) investigates the public sector and has the power to arrest and detain suspects.

The most recent figures showed that during the first half of the year the CCAC received 417 complaints against public officials in a variety of agencies; 336 were criminal cases, and 81 were administrative cases. The CCAC pursued 138 of these complaints, including 57 criminal cases and 81 administrative complaints, 11 of which were transferred to the Public Prosecutions Office. The Ombudsman Bureau, within the CCAC, reviews complaints of maladministration or abuse by the CCAC. There were no reports of such complaints during the year. There also is an independent committee outside CCAC called the Monitoring Committee on Discipline of the CCAC Personnel, which accepts and reviews complaints about CCAC personnel.

By law the CE, his cabinet, judges, members of the Legislative Assembly and the Executive Council, and executive agency directors are required to disclose their financial interests.

The law does not provide for public access to government information. However, the executive branch published online, in both Portuguese and Chinese, an extensive amount of information on laws, regulations, ordinances, government policies and procedures, and biographies of government officials. The government also issued a daily press release on topics of public concern. The information provided by the legislature was less extensive.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

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

The government sent delegations to join the PRC delegation at UN human rights fora throughout the year. The government also cooperated with diplomatic missions in researching human rights issues.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law stipulates that residents shall be free from discrimination, and many local laws carry specific prohibitions against discrimination; the government effectively enforced the law.

Women.—The law criminalizes rape, including spousal rape, and the government effectively enforced the law. In the first half of the year, there were six reported rapes. The police and courts promptly acted on rape cases.

The government effectively enforced criminal statutes prohibiting domestic violence against women and prosecuted violators; however, various nongovernmental organizations (NGOs) and government officials considered domestic violence against women to be a growing problem. Domestic violence is punishable by one to 15 years in prison. In the case of both spousal abuse and violence against minors, the penalty is two to eight years' imprisonment; if the abuse leads to the death of the victim, the penalty is five to 15 years. In the first half of the year, 221 cases of domestic violence were reported to the police.

The government provided hospital treatment for victims of abuse, and medical social workers counseled victims and informed them of social welfare services. The government may provide victims of domestic violence with public housing until their complaints are resolved, but it did not reserve facilities expressly for this purpose. The government also supported two 24-hour hotlines, one for counseling and one for reporting domestic violence cases.

NGOs and religious groups sponsored programs for victims of domestic violence, and the government supported and helped to fund these organizations and programs. The Bureau for Family Action, a government organization subordinate to the Department of Family and Community of the Social Welfare Institute, helped female victims of domestic violence by providing a safe place for them and their children and advice regarding legal actions against perpetrators. A family counseling service was available to persons who requested such services at social centers. Two government-supported religious programs also offered rehabilitation programs for female victims of violence.

Prostitution is legal and common; however, procurement and the operation of a brothel are illegal. Nevertheless, the SAR had a large sex trade, including brothels, most of which were believed to be controlled by Chinese organized crime groups, and many of those exploited by the trade were women.

There is no law specifically addressing sexual harassment, although harassment in general is prohibited under laws governing equal opportunity, employment and labor rights, and labor relations. Between January and June, neither the Labor Affairs Bureau nor the Social Welfare Bureau received complaints either of discrimination based on gender or sexual harassment.

Couples and individuals had the right to decide the number, spacing, and timing of children, and had the information and means to do so free from discrimination. Access to information on contraception, and skilled attendance at delivery and in postpartum care were widely available. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections.

Equal opportunity legislation mandates that women receive equal pay for equal work; however, observers estimated that there was a significant difference in salary between men and women, particularly in unskilled jobs. The law allows for civil suits, but few women took their cases to the Labor Affairs Bureau or other entities. Discrimination in hiring practices based on gender or physical ability is prohibited by law, and penalties exist for employers who violate these guidelines. There were no reports alleging sexual discrimination during the first half of the year.

Children.—In accordance with the Basic Law, children of Chinese national residents of Macau born in or outside of the SAR, and children born to non-Chinese national permanent residents inside the SAR, are regarded as permanent residents. There is no differentiation among these categories in terms of access to registration of birth. The government protected the rights and welfare of children through the general framework of civil and political rights legislation that protects all citizens.

Education is compulsory and free for most children between ages five and 15 through general secondary education. However, the children of illegal immigrants were excluded from the educational system. Experts believed this exclusion affected only a few children.

The law specifically provides for criminal punishment for sexual abuse of children and students, statutory rape, and procurement involving minors. The criminal code sets 14 as the age of sexual consent and 16 for participation in the legal sex trade. Child pornography is prohibited by law.

Trafficking in Persons.—The SAR is a transit and destination point for women and girls trafficked for the purposes of commercial sexual exploitation. Most victims were persons from inland Chinese provinces who migrated to the border province of Guangdong in search of employment, where they fell prey to false advertisements for jobs in Macau. Other foreign and mainland Chinese women and girls were deceived into migrating voluntarily for employment opportunities in casinos, as dancers, or other types of employment; upon arrival, some victims were passed to local organized crime groups, held captive, and forced into sexual servitude. Some foreign victims were misinformed about their destination and diverted to the SAR, where they were trafficked into prostitution.

A 2008 comprehensive antitrafficking law prohibits all forms of trafficking in persons and prescribes penalties ranging from three to 12 years' imprisonment. Penalties increase by one-third for trafficking victims under 14 years old. Retaining, hiding, spoiling, or destroying the identification or travel documents of a trafficking victim also incurs a penalty of one to five years' imprisonment, if no harsher punishment is available in other laws. In November the first person convicted under the 2008 law was sentenced to 7.5 years' imprisonment. Several other cases were awaiting trial.

Although prostitution is legal, a "procurement" law makes it a crime to instigate, favor, or facilitate the practice of prostitution by another person for the purposes of profit or as a way of life, although the penalties for this crime are less severe and the procurement crime does not recognize a victim.

Between January and December, there were four reported cases of human trafficking. On May 16, the Judiciary Police arrested four men and two women for human trafficking, controlling prostitutes, and illegal retention of identity documents. Nineteen victims were rescued from six residential apartments where they reportedly were forced to provide sex services. One victim told police she had been forced to perform sex services 60-70 times, and all her earnings were taken by the traffickers.

Authorities believed that Chinese, Russian, and Thai criminal syndicates in some instances were involved in trafficking women to the SAR for prostitution, after which victims were passed on to local crime syndicates. Victims were from mainland

China, Mongolia, Russia, the Philippines, Central Asia, Vietnam, and Thailand. There were no confirmed reports of official involvement in human trafficking. A police officer arrested in 2007 for allegedly blackmailing two women in prostitution for “protection” fees was expelled from the police force and was awaiting trial.

The Social Welfare Bureau provided temporary shelter, counseling, and financial and medical assistance to identified victims of trafficking. The government also published leaflets to educate citizens on human trafficking, associated penalties, and the government’s protection measures for victims. The leaflets, printed in Chinese, Portuguese, and English, were available at border and transit points, police and other government offices, health-care and social welfare facilities, and educational institutions. The government ran television, newspaper, and radio announcements to further educate the public about human trafficking. The Antitrafficking Commission launched a Web site in Chinese, Portuguese, and English to provide antitrafficking resources and information, including the two hotlines dedicated for reporting trafficking crimes.

The Department of State’s annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The law prohibits discrimination against persons with physical and mental disabilities in employment, access to health care, or the provision of other state services, and the government generally enforced these provisions in practice. The law mandates access to buildings for persons with disabilities. The Social Welfare Institute was primarily responsible for coordinating and funding public assistance programs to persons with disabilities. The government employed 79 persons with disabilities as public servants.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—There are no laws criminalizing any sexual orientation, and no prohibition against lesbian, gay, bisexual, or transgender (LGBT) persons forming organizations or associations. There were no such organizations active during the year. No LGBT marches or other events occurred during the year. There were no reports of violence against persons based on their sexual orientation.

Other Societal Violence or Discrimination.—The law prohibits discrimination against persons with HIV/AIDS and limits the number of required disclosures of an individual’s HIV status. Employees outside medical fields are not required to declare their status to employers. There were anecdotal reports that persons whose status became known, as well as organizations supporting them, faced some forms of discrimination. There were no reported incidents of violence against persons with HIV/AIDS.

Section 7. Worker Rights

a. The Right of Association.—The law provides for the right of workers to form and join unions or “labor associations” of their choice without previous authorization or excessive requirement, and the government generally respected this right in practice. Between January 2008 and June 2009, the government registered 31 new labor associations, eight new professional associations, and 29 new private sector associations; none were deregistered. Data on the percentage of unionized workers was unavailable. A draft law on labor unions was rejected by the Legislative Assembly in April, due to concern that key issues were not addressed with sufficient clarity.

According to the International Trade Union Confederation (ITUC), due to the PRC government’s strong influence over local trade union activities, including the direct selection of the leadership of the Federation of Trade Unions (FTU), trade union independence was undermined and the protection of trade union members’ rights compromised. PRC government policies emphasized minimizing workplace disruption, and some unions were criticized for tending to resemble local traditional neighborhood associations promoting social and cultural activities. The Union for Democracy Development Macau (UDDM) and some local journalists claimed that the FTU was more interested in providing social and recreational services than in addressing labor problems such as wages, benefits, and working conditions.

Workers have the right to strike, but there is no specific protection in the law from retribution if workers exercise this right. The government argued that striking employees are protected from retaliation by labor law provisions, which require an employer to have “justified cause” to dismiss an employee; however, there were reports that the government failed to enforce these provisions. Strikes, rallies, and demonstrations were not permitted in the vicinity of the CE’s office, the Legislative Assembly, and other key government buildings.

Workers who believed they were dismissed unlawfully may bring a case to court or lodge a complaint with the Labor Department or the Office of the High Commis-

sioner Against Corruption and Administrative Illegality, which also functions as ombudsman. However, migrant workers had no right to such recourse.

b. The Right to Organize and Bargain Collectively.—The law provides that agreements concluded between employers and workers shall be valid, but there is no specific statutory protection that provides for the right to collective bargaining; however, the government did not impede or discourage collective bargaining. Pro-PRC unions traditionally have not attempted to engage in collective bargaining. Migrant workers and public servants did not have the right to bargain collectively.

The ITUC maintained that under the law, the high percentage of foreign labor, which has no right to collective bargaining, was eroding the bargaining power of local residents to improve working conditions and increase wages.

The law prohibits antiunion discrimination and employer interference in union functions; however, the UDDM expressed concern that the local law contains no explicit provisions that bar discrimination against unions.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits minors under the age of 16 from working, although minors between the ages of 14 and 16 can be authorized to work on an “exceptional basis.” Some children reportedly worked in family-operated or small businesses. Local laws do not establish specific regulations governing the number of hours these children can work, but International Labor Organization conventions were applied. The Labor Department enforced the law through periodic and targeted inspections, and violators were prosecuted.

e. Acceptable Conditions of Work.—Local labor laws establish the general principle of fair wages and mandate compliance with wage agreements. There was no mandatory minimum wage, except for government-outsourced security guards and cleaners. Average wages provided a decent standard of living for a worker and family.

In 2008 representatives of employers, employees, and the government discussed a minimum wage scheme for all sectors. They concluded that a minimum wage imposed on all industries would be complex and difficult and a mandatory minimum wage would be implemented only after the community reaches a consensus. In response to a legislative query, the Labor Affairs Bureau in April again stated that society had not yet reached a consensus on a minimum wage.

Local customs normally favored employment without the benefit of written labor contracts, except in the case of migrant workers, who were issued short-term contracts. Labor groups reported that employers increasingly used temporary contracts as a means to circumvent obligations to pay for workers’ benefits such as pensions, sick leave, and paid holidays. The short-term nature of the contracts also makes it easier to dismiss workers by means of nonrenewal. In its August 25 “Concluding Observations” on the report issued by China (including Macau and Hong Kong), the UN Committee on the Elimination of Racial Discrimination called on the SAR government to extend social welfare benefits to all workers, including migrant workers.

Labor legislation provides for a 48-hour workweek, an eight-hour workday, paid overtime, annual leave, and medical and maternity care. Although the law provides for a 24-hour rest period each week, workers frequently agreed to work overtime to compensate for low wages. The Labor Department provided assistance and legal advice to workers upon request.

The Labor Department enforced occupational safety and health regulations, and failure to correct infractions could lead to prosecution. During the first half of the year, the Labor Department Inspectorate conducted 2,830 inspections and uncovered 55 violations carrying fines totaling approximately 162,300 patacas (\$20,330). In the first half of the year, there were 1,728 work-related injuries and three work-related deaths. Although the law includes a requirement that employers provide a safe working environment, no explicit provisions protected employees’ right to continued employment if they refused to work under dangerous conditions.

TAIWAN

Taiwan’s population of 23 million is governed by a president and parliament chosen in multiparty elections. International observers considered the January 2008 legislative elections and the March 2008 presidential election, which Ma Ying-jeou of the Kuomintang Party (KMT) won, free and fair. Civilian authorities generally maintained effective control of the security forces.

Taiwan generally respected the human rights of its citizens; however, the following problems continued to be reported: corruption by officials, violence and discrimination against women, trafficking in persons, and abuses of foreign workers.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the authorities committed arbitrary or unlawful killings.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution stipulates that no violence, threat, inducement, fraud, or other improper means should be used against accused persons, and there were no reports that the authorities employed them.

Prison and Detention Center Conditions.—Prison conditions generally met international standards, and the authorities permitted monitoring visits by independent human rights observers. As of September, there were 54,782 adult prisoners, 50,353 males, 4,429 women, and fewer than 1,000 juveniles. As of September prisons operated at 115.9 percent of design capacity.

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

Role of the Police and Security Apparatus.—The National Police Administration (NPA) of the Ministry of Interior (MOI) has administrative jurisdiction over all police units, although city mayors and county magistrates appoint city and county police commissioners. Mayors and magistrates are responsible for maintaining order and assessing the performance of police commissioners within their jurisdictions.

Police corruption, while limited, was a problem. The NPA did not keep statistics on police corruption cases. In March an officer with the Criminal Investigation Bureau in Taipei County was indicted on corruption charges for taking goods from a suspected burglar. In November 2008 several police officers in Taipei County were indicted for taking bribes from karaoke, video gambling, and gravel business operators. The prosecutors proposed jail terms of up to 14 years. At year's end the trial was ongoing. In December the Banciao District Court convicted five police officers of accepting bribes from casino operators in Taipei and Taoyuan counties and sentenced them to prison terms ranging from 12 to 20 years.

Prosecutors and the Control Yuan are responsible for investigating allegations of police malfeasance. The NPA also has an inspector general and an internal affairs division that investigated allegations of police misconduct. Police officers and senior officials suspected of corruption and other misbehavior were prosecuted and punished upon conviction.

Arrest Procedures and Treatment While in Detention.—Warrants or summons are required by law except when there is ample reason to believe the suspect may flee, or in urgent circumstances. Indicted persons may be released on bail at judicial discretion. By law prosecutors must apply to the courts within 24 hours after arrest for permission to continue detaining an arrestee. The authorities generally observed these procedures, and trials usually took place within three months of indictment. According to the Code of Criminal Procedure, prosecutors can apply to a court for approval of a pretrial detention of an unindicted suspect for a maximum of two months with one possible two-month extension. Judicial reform advocates have urged limiting pretrial detention to better protect defendants' rights. Pretrial detention can be requested in cases where the potential sentence is five years or more or where there is a reasonable concern that the suspect could flee, collude with other suspects or witnesses, or tamper or destroy material evidence. In October the Constitutional Court ruled that a defendant may not be detained solely on the basis of the potential sentence.

Former president Chen Shui-bian was detained for approximately 10 months, except for a short break, before his conviction on various corruption charges (see section 4). The district court, in justifying his detention, expressed concern that Chen could collude with witnesses, tamper with evidence, and posed a flight risk. His preindictment detention was for one month.

Human rights advocates complained that the law did not provide adequate protection since there is no requirement that suspects have legal representation during questioning. The Judicial Yuan (JY) and the NPA expanded a program to provide legal counsel during initial police questioning to qualifying indigent suspects who are mentally handicapped or charged with a crime punishable by three or more years in prison. Lawyers recruited by the Legal Aid Foundation staffed 21 branch offices that serviced 23 cities and counties around the island. Fifty police sub-bu-

reaus, one-third of the island's 158 sub-bureaus, were implementing the program. Human rights lawyers contended that while courts were required to appoint counsel after an indictment was filed, the existing Criminal Procedure Code did not specify what lawyers could do to protect the rights of indigent criminal suspects during initial police questioning. The program has enjoyed some success, but some groups argued that police need more on-the-job training and police facilities should be improved to accommodate lawyers in their initial questioning of suspects. More than half of the island's 5,000 lawyers have participated in this program.

In January the Constitutional Court issued an interpretation declaring that, effective May 1, discussions between defense counsel and their clients could no longer be taped or monitored by prison authorities or provided to prosecutors.

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary, and the authorities generally respected judicial independence in practice. Although the authorities made efforts to eliminate corruption and to diminish political influence in the judiciary, some residual problems remained. During the year judicial reform advocates pressed for greater public accountability, reforms of the personnel system, and other procedural reforms. Some political commentators and academics also publicly questioned the impartiality of judges and prosecutors involved in high-profile and politically sensitive cases.

Former president Chen Shui-bian and his wife, who were indicted in 2008 on corruption charges, were found guilty and sentenced to life in prison on September 11; Chen has appealed the verdict. The Chen trial heightened scrutiny of issues such as preindictment and pretrial detention, prosecutorial leaks and other possible prosecutorial misconduct, and transparency in judicial procedures. In October the Constitutional Court upheld the constitutionality of judicial procedures used by the Taipei District Court in the Chen case.

The JY is one of the five coequal branches of the political system and includes the 15-member Constitutional Court, which interprets the constitution as well as laws and ordinances. Subordinate JY organs include the Supreme Court, high courts, district courts, administrative courts, and the Committee on the Discipline of Public Functionaries.

Active-duty military personnel are subject to the military justice system, which provides the same protections as the civil criminal courts. The Code of Court-Martial Procedure requires that prosecutors and judges not be under the same command.

Trial Procedures.—The constitution establishes the right to a fair trial, and an independent judiciary generally enforced this right. Judges, rather than juries, decided cases; all judges were appointed by and were responsible to the JY. A single judge, rather than a defense attorney or prosecutor, typically interrogated parties and witnesses. Trials are public, although court permission may be required to attend trials involving juveniles or potentially sensitive issues that might attract crowds. A defendant's access to evidence held by the prosecution is determined by the presiding judge on a case-by-case basis. All defendants are presumed innocent until proven guilty and have the right to an attorney, and criminal procedure rights are extended to all persons without limitation.

The law states that a suspect may not be compelled to testify and that a confession shall not be the sole evidence used to find a defendant guilty. All convicted persons have the right to appeal to the next higher court level. Persons sentenced to terms of imprisonment of three years or more may appeal beyond that level. The Supreme Court automatically reviews life imprisonment and death sentences. It is unconstitutional to allow the confessions of accomplices to be the only evidence to convict a defendant.

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

Civil Judicial Procedures and Remedies.—There is an independent and impartial judiciary for civil matters. Administrative remedies are available in addition to judicial remedies for alleged wrongs, including human rights violations.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution prohibits such actions, and the authorities generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of speech and of the press, and the authorities generally respected these rights in practice.

There was a vigorous and active free press. Critics alleged that dependency upon advertising revenue and loans from government-controlled banks deterred a few

media outlets from criticizing the authorities. The authorities denied using loans or advertising revenue to manipulate the media.

In May the mass-circulation Apple Daily quoted a former journalist who said that the authorities had paid at least two leading newspapers to write and publish articles praising the authorities' achievements ahead of the anniversary of President Ma's inauguration. The Apple Daily also alleged that the MOI did not want newspapers to identify placements as paid advertising. In response the Government Information Office (GIO) reiterated that the authorities opposed using advertisements posing as news stories to promote policies. Some observers reported a significant increase in paid placements in the local print and electronic media by the authorities and private businesses as media revenues dropped in the wake of the global financial crisis.

In January 3,000 persons gathered outside the Legislative Yuan (LY) to protest alleged political interference in the operation of the Taiwan Broadcasting System (TBS). TBS includes the Public Television Service and was funded principally by the authorities.

During the year several nongovernmental organizations (NGOs) noted a deterioration in press freedom, citing attempts at interference and attacks by demonstrators against reporters. The GIO's chairman responded that the authorities absolutely had not interfered with press freedom.

Seven People's Republic of China (PRC) news outlets have journalists in Taiwan, and PRC officials reportedly had asked for permanent media offices on the island.

Internet Freedom.—There were no official restrictions on access to the Internet, and individuals and groups could engage in peaceful expression of views via the Internet, including by e-mail. According to the International Telecommunication Union statistics for 2008, approximately 65.7 percent of the population used the Internet.

Several NGOs reported that law enforcement officials monitored Internet chat rooms and bulletin boards and used Internet addresses to identify and prosecute adults responsible for posting sexually suggestive messages. Critics alleged the Child and Youth Sexual Transaction Prevention Act (CYSTPA), which is intended to protect children from sexual predators, was used to punish constitutionally protected free speech between consenting adults. In response to a request by persons opposed to this use of the CYSTPA, the Constitutional Court looked at the issue and ruled in favor of the law enforcement officials' actions. The Court noted that the constitutional guarantee to free speech is not absolute and may be subject to reasonable restrictions intended to preserve a significant public interest—in this case, "to deter and eliminate cases where children or juveniles become objects of sexual transaction."

Academic Freedom and Cultural Events.—There were no restrictions on academic freedom.

In September the Kaohsiung film festival, reportedly at the urging of the city government, rescheduled the screening of a documentary about Uighur activist Rebiya Kadeer so that it occurred before the official festival. Reportedly, the city officials were attempting to forestall PRC retaliation against the city's tourism business, but after pressure from the Democratic Progressive Party (DPP), the film was placed back on the film festival schedule and shown at various venues throughout the island.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—Opposition-party legislators and human rights NGOs claimed that the Assembly and Parade Law unconstitutionally restricts free speech and assembly, and called for it to be amended or abolished. They claimed that the law unfairly disadvantaged smaller organizations and was selectively enforced. The Taiwan Association for Human Rights and more than a dozen other civic groups formed an alliance to advocate removing restrictions on street protest demonstrations and eliminating the requirement to apply to police for permission to hold a demonstration. In May the authorities charged two professors alleged to be organizers of the 2008 "Wild Strawberry" student movement demonstrations for failing to obtain permits in violation of the Assembly and Parade Law.

In the first seven months of the year, 26 persons were under investigation for 18 alleged violations of the Assembly and Parade Law (typically failure to obtain a permit or failure to comply with a police order to disperse); six individuals were indicted in five cases. During the seven-month period, three persons were convicted, each given a sentence of less than two months of forced labor.

Freedom of Association.—The law provides this right, and the authorities generally respected it in practice.

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

Societal Abuses and Discrimination.—There were no reports of societal abuses or discrimination against persons for their religious beliefs or practices, and no reports of anti-Semitic acts. The Jewish population numbered approximately 200 persons.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution provides for freedom of movement within the Taiwan, foreign travel, emigration, and repatriation, and the authorities generally respected these rights in practice.

All travelers from the PRC are required to have invitations from sponsors and are subject to approval by the Mainland Affairs Council. PRC tourists must travel in groups and stay at designated hotels. PRC tour groups must be chaperoned by a Taiwan travel agency, which is required to post a NT\$ one million (\$30,800) bond in order to receive PRC tour groups. The bond can be partially or entirely forfeited if any tour group member is involved in legal problems or is reported missing. The Tourism Bureau must be notified in advance of any change to a tour group itinerary.

The law does not provide for forced exile, and it was not practiced.

Prior to 2000, citizens residing in the PRC could lose citizenship if they had not returned within four years. They could apply to recover citizenship through relatives or a legal representative. Applications to recover citizenship were regularly granted, and there were no reports of rejected applications.

Protection of Refugees.—Because of its international status, the Taiwan is unable to be a party to the 1951 UN Convention relating to the Status of Refugees or its 1967 protocol; its law does not provide for the granting of asylum or refugee status. All PRC citizens unlawfully present are required by law to be returned to the PRC. At year's end there were nine PRC nationals on Taiwan seeking asylum elsewhere.

Throughout the year the authorities repatriated illegal immigrants to their countries of origin. According to the MOI, the total number of illegal PRC immigrants deported to the mainland declined, from 595 in 2007 to 365 in 2008. During the first eight months of the year, 200 illegal PRC immigrants were deported. The amount of time PRC illegal immigrants remained in detention decreased. During the year the average detention lasted 71 days. As of August 31, 48 illegal PRC immigrants were awaiting deportation. There were 782 non-PRC illegal aliens (including 494 women and 288 men) awaiting deportation. Their average waiting time was 37.7 days.

On January 1, a group of more than 100 ethnic Tibetans ended a 24-day sit-in seeking legal status in Taiwan. The Tibetans entered the Taiwan at different times since 2002 and were overstaying their temporary visas. The LY passed amendments to the Immigration Act allowing Tibetans who overstayed their visas to apply for residency certificates. As of November, 78 had been granted residency and 40 of those with work permits.

Stateless Persons.—On January 23, the LY passed an amendment to the Immigration Act granting residency to more than 400 descendants of soldiers left behind in Thailand and Burma at the end of the Chinese civil war in 1949. On June 10, the MOI promulgated a set of measures governing applications for residency by these descendants.

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

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

Elections and Political Participation.—In January 2008 the Kuomintang (KMT) won a significant majority in the LY following the implementation of a new single-member district electoral system. Two months later, the KMT presidential candidate Ma Ying-jeou won the presidency, marking the second peaceful, democratic transfer of power in Taiwan's history. Observers regarded the elections as free and fair.

Political parties operated without restriction or outside interference.

There were 33 women in the 113-member LY. Seven of the 40 Executive Yuan (cabinet) members were women. The mayor of Kaohsiung, the island's second largest city, was a woman. Two of the 15 Constitutional Court justices were women. At least half of the at-large seats won by a political party were required to be filled by women.

Representatives of the indigenous population participated in most levels of the political system. They held six reserved seats in the LY, half of which were elected by plains tribes and half by mountain tribes. Indigenous peoples accounted for approximately 2 percent of the population; their allocation of legislative seats was more than double their proportion of the population.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption and the authorities generally implemented these laws effectively. There were allegations of official corruption during the year.

In September former president Chen Shui-bian and his wife Wu Shu-jeen were convicted on corruption and money laundering charges, and both were sentenced to life in prison. Chen, who remained in detention, filed an appeal with the Taipei High Court. Some observers, including Chen's supporters, asserted the judicial process in Chen's case was flawed and protested his continued detention. Others said the trial demonstrated that even the highest officials would be held accountable to the law.

Allegations of vote buying continued, although all political parties were publicly committed to ending the practice. In October two members of the KMT Central Standing Committee (CSC) were removed from that body for sending gifts to potential voters. Subsequently, 27 of the 30 remaining CSC members resigned, and a by-election was held November 14 for the 32 empty seats. During the year the courts removed three KMT legislators and one People First Party legislator from office on the grounds of vote-buying. There were criminal trials and prison sentences were meted out.

In April the LY amended the Act for the Punishment of Corruption to bring criminal charges against civil servants who fail to account for the origins of abnormal increases in their assets. All public servants are subject to the Public Servants' Property Declaration Law. The Ministry of Justice (MOJ) is in charge of combating official corruption.

In July, 15 incumbent and former supervisors of the Taipei Detention Center were indicted for receiving bribes from detainees and their families. Prosecutors suggested prison terms of from 12 to 26 years. DPP lawmaker Gao Jyh-peng was indicted on charges of accepting bribes. In August Kinmen County Magistrate Lee Chu-feng (New Party) was indicted on charges of embezzlement and forgery.

During the 12-month period from June 2008, prosecutors indicted 1,973 persons on various corruption charges. Of the 992 officials accused, 60 were elected, 125 were high-ranking, 322 were mid-level, and 485 were low-level.

The Access to Government Information Law stipulates that all such information be made available to the public upon request, except national secrets, professional secrets, personal information, and protected intellectual property. The law provides that registered citizens, companies, and groups can submit information requests and can appeal denied requests. These privileges are extended on a reciprocal basis to citizens of foreign countries.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without restriction, investigating and publishing their findings on human rights cases. The authorities often were cooperative and responsive to their views.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution provides for equality of citizens before the law irrespective of sex, religion, race, class, or party affiliation. It also provides for the rights of persons with disabilities. The authorities enforced these provisions effectively.

Women.—Violence against women, including rape and domestic violence remained a serious problem. Rape, including spousal rape, is a crime. Because victims were socially stigmatized, many did not report the crime, and the MOI estimated that the total number of sexual assaults was 10 times the number reported to the police.

The law provides protection for rape victims. Rape trials are not open to the public unless the victim consents. The law permits a charge of rape without requiring the victim to press charges.

The law establishes the punishment for rape as not less than five years' imprisonment, and those convicted usually were given prison sentences of five to 10 years. According to the MOI, 5,305 reports of rape or sexual assault were filed through July. As of July, 1,402 persons were indicted for sexual assault and 1,098 persons were convicted. According to the MOJ, the average prosecution rate for rape and

sexual assault over the past five years was approximately 50 percent and the average conviction rate was about 90 percent.

The law allows prosecutors to take the initiative in investigating complaints of domestic violence without waiting for a spouse to file a formal lawsuit. As of September, 65,359 cases of domestic violence had been reported, and 2,370 persons had been prosecuted for domestic violence. Of those prosecuted, 1,695 persons were sentenced to prison terms of less than one year, seven were sentenced to life in prison, and one was given the death penalty. As of September, 7,815 protection orders had been issued to female domestic violence victims and 1,089 to male victims. Typically persons convicted in domestic violence cases were sentenced to less than six months in prison. Social pressure not to disgrace their families discouraged abused women from reporting incidents to the police.

The law requires all cities and counties to establish violence prevention and control centers to address domestic and sexual violence, child abuse, and elder abuse. These centers provided victims with protection, medical treatment, emergency assistance, shelter, legal counseling, and education and training on a 24-hour basis.

Prostitution is illegal. The Social Order Maintenance Act mandates punitive measures only for prostitutes; those patronizing prostitutes are not subject to penalties unless a minor is involved. In November the Constitutional Court ruled that this violated the principle of equality and gave the authorities a two-year window in which to amend the law.

Trafficking in women remained a problem.

Sexual harassment in the workplace is a crime, punishable by fines from NT\$100,000 to NT\$ one million (approximately \$3,080 to \$30,800) and imprisonment for up to two years. All public employers and larger private employers are required to enact preventive measures and establish complaint procedures to deter sexual harassment. The 113 hotlines received 61,856 calls reporting domestic violence through September. Women's groups complained that, despite the law and increased awareness of the issue, judicial authorities remained dismissive of sexual harassment complaints.

Individuals and couples had the right to decide the number, spacing, and timing of their children and had the information and means to do so. However, unmarried persons are prohibited by law from obtaining fertility treatments. Access to contraception and skilled attendance during childbirth and postpartum were widely available. Women and men were equally diagnosed and treated for sexually transmitted infections.

The law prohibits discrimination based on gender and stipulates that measures be taken to eliminate sexual harassment in the workplace. The Gender Equality in Employment Act (GEEA) provides for equal treatment with regard to salaries, promotions, and assignments. The GEEA entitles women to request up to two years of unpaid maternity leave and forbids termination because of pregnancy or marriage. Central and local agencies, schools, and other organizations are required to develop enforcement rules and set up gender equality committees to oversee the implementation of the law. The law was revised in 2007 to increase penalties for violators. One NGO claimed that the authorities were not doing enough to raise public awareness of this issue.

Women's advocates noted that women continued to be promoted less frequently, occupied fewer management positions, and worked for lower pay than their male counterparts. Women made up 50 percent of the service industry workforce and the total workforce. According to the Council for Labor Affairs (CLA), salaries for women averaged 82 percent of those for men performing comparable jobs.

Children.—Citizenship is derived from one's parents or by birth on the island. The authorities were committed to the rights and welfare of children, and the law included provisions to protect them.

Child abuse continued to be a widespread problem. A reliable NGO reported sexual abuse was more prevalent than the public realized, with the estimated number of victims reaching approximately 20,000 per year while only approximately 3,000 were reported. According to MOI, 6,373 cases, including cases of physical, mental, or sexual abuse or harm due to guardian neglect, were reported to the Child Welfare Bureau as of June and 20,058 cases of child abuse were reported through the child abuse hotline in 2008. Central and local authorities, as well as private organizations, continued efforts to identify and assist high-risk children and families and to increase public awareness of child abuse and domestic violence.

By law persons discovering cases of child abuse or neglect must notify the police or welfare authorities. Child welfare specialists must notify the local authorities within 24 hours, and authorities must take appropriate measures within 24 hours. Regulations encourage officials to respond to investigation requests within four days. The MOI Children's Bureau and NGO specialists monitored cases to ensure

that requirements were met. An official hotline accepted complaints of child abuse and offered counseling. Courts were authorized to appoint guardians for children whose parents were deemed unfit.

The minimum age of consent to engage in sexual relations is 18. Persons who engage in sex with children under age 14 faced sentences of three to 10 years in prison. Those who engaged in sex with minors between ages 14 to 16 were sentenced to three to seven years. Solicitors of sex with minors older than 16 but younger than 18 faced up to one year in prison or hard labor, or a fine up to NT\$ three million (approximately \$92,400). According to the MOI Child Welfare Bureau, 93 minors were rescued from prostitution in the first five months of this year and placed in shelters. The Child Welfare Bureau reported a significant decrease in the number of boys exploited as prostitutes.

The extent to which child prostitution occurred was difficult to measure because of increased use of the Internet and other sophisticated communication technologies to solicit clients. Advertisements related to prostitution were prohibited, and the law was enforced in practice. Citizens arrested abroad for having sex with minors could also be indicted and convicted for patronizing underage prostitutes in foreign countries under the law. The law also prohibits child pornography and violators are subject to sentences of up to six months and substantial fines.

As of July, 215 persons were indicted and 273 persons were convicted of violating the CYSTPA, which criminalizes child prostitution and the possession and distribution of child pornography. The law requires publication of violators' names in newspapers.

Trafficking in Persons.—Trafficking in persons continued to be a problem. In January the LY passed the Human Trafficking Prevention Act, which criminalized sex, labor, and organ trafficking. The Act and its corresponding measures went into effect June 1. In addition to the new trafficking law, trafficking acts were criminalized through a number of other statutes.

The MOI, the MOJ, the National Immigration Agency (NIA), the CLA, the NPA, and several other agencies are responsible for combating trafficking. A senior-level prosecutor unit supervises district court handling of trafficking cases and there are antitrafficking task forces within the NIA, the NPA, the Coast Guard, and the 21 district court offices.

Taiwan is primarily a destination for Southeast Asian and PRC nationals trafficked into forced labor or sexual exploitation. There were reports of women being trafficked from Taiwan to Japan for sexual exploitation purposes.

Authorities reported that traffickers continued to use fraudulent marriages as a primary method for human trafficking, in part because penalties for "husbands" were lenient. Some women smuggled to Taiwan to seek illegal work were subsequently forced to work in the commercial sex industry. The Child Welfare Bureau reported a significant decrease in the number of children rescued from prostitution, and unlike in the past, there were no reports of children being trafficked into Taiwan to work in the commercial sex industry. Labor trafficking remained a serious problem (see section 7.e.).

As of December the MOJ reported authorities had indicted 335 individuals for trafficking offenses, of whom 266 were convicted. Approximately 51 percent of the cases closed through December involved sexual exploitation, forced labor accounted for 23 percent, and 27 percent were convicted of both sexual and labor exploitation. The principal defendant in the October 2008 arrests of 34 persons at a large labor brokerage was found guilty of fraud, money laundering, and other charges and was sentenced to five years and six months in prison by the Miaoli District Court.

Incidents of public employees or officials implicated in trafficking were rare, but they did occur. There were reports of local authorities accepting bribes in return for ignoring illegal sex- and labor-trafficking activities.

There are island-wide guidelines for identifying and treating trafficking victims. The authorities regularly conducted exercises to train police, immigration officials, and other law enforcement personnel in identifying victims. However, police, prosecutors and other law enforcement personnel did not always consistently follow victim identification procedures. NGOs reported concerns that an increase in the number of raids and arrests had not resulted in increased convictions. Authorities enacted standard application procedures for new provisions of the Immigration Act that allow trafficking victims to obtain temporary residency and work permits. Between June 1 (when the new antitrafficking law went into effect) and August 31, 44 temporary residence permits and 32 work permits were issued. NGOs added that some trafficking victims continued to be punished with community service and fines for violating immigration, foreign labor, or prostitution laws.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The law prohibits discrimination against persons with disabilities and sets minimum fines for violations.

MOI and CLA are responsible for protecting the rights of persons with disabilities. The law stipulates that the authorities must provide services and programs to the disabled population. Free universal medical care was provided to persons with disabilities. NGOs continued to note that more public nursing homes were needed and that current programs, such as home care services, needed to be expanded to meet the growing needs of those with disabilities, including the growing numbers of elderly persons.

From July 11, a public agency with 34 or more employees must hire at least 3 percent of its workforce from among those with physical or mental disabilities. Private sector enterprises that have a work force of 67 or more are required to have at least 1 percent of the payroll filled by employees with disabilities. The new employment regulations were expected to provide approximately 4,400 job opportunities for persons with disabilities.

By law new public buildings, facilities, and transportation equipment must be accessible to persons with disabilities, and this requirement was generally met. Violations resulted in fines ranging from NT\$60,000 to NT\$300,000 (\$1,850 to \$9,240).

National/Racial/Ethnic Minorities.—As of August, 10 percent of all marriages included a foreign-born spouse, primarily individuals from China, Vietnam, Indonesia, and Thailand, and an estimated 9.6 percent of all births were to foreign-born mothers.

Foreign spouses were targets of discrimination both inside and outside the home.

During the year the Control Yuan held that the right to family unification was a protected constitutional right and that, therefore, consideration of spousal visas should be handled in accordance with due process principles.

The authorities offered free Chinese-language and child-raising classes and counseling services at community outreach centers to assist foreign-born spouses' integration into society. The Legal Aid Foundation provided legal services to foreign spouses and operated a hotline to receive complaints. The MOI also operated its own hotline with staff conversant in Vietnamese, Cambodian, Thai, Indonesian, English, and Chinese.

Following amendments to the law, PRC-born spouses must wait six rather than eight years to apply for Taiwan residency, whereas non-PRC spouses may apply after only three years. The amended law also stipulates that PRC foreign spouses are now also permitted to work on Taiwan immediately on arrival. In addition, the authorities canceled the quota for visas for PRC spouses in August.

Indigenous People.—There are 13 identified non-Chinese groups of indigenous people, accounting for approximately 2 percent of the population. The law protects the civil and political rights of these indigenous people. The Indigenous Peoples Basic Act stipulates that the authorities should provide resources to help indigenous people develop a system of self-governance, formulate policies to protect their basic rights, and promote the preservation and development of their language and culture. Critics complained that the authorities did not do enough to preserve aboriginal culture and language. The cabinet-level Council of Indigenous Peoples worked with other ministries to raise living standards in aboriginal regions through basic infrastructure projects. The council also provided emergency funds and college scholarships to the indigenous population. However, one aboriginal leader blamed the authorities for making no progress over the past year on bills promoting Aboriginal autonomy and Aboriginal traditional domains.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—There are no laws prohibiting homosexual activities. According to homosexual rights activists, antihomosexual violence was rare, but societal discrimination against lesbian, gay, bisexual, and transgender (LGBT) persons with HIV and AIDS was a problem.

LGBT rights activists said instances of police pressure to close gay- and lesbian-friendly bars and bookstores decreased.

The seventh gay pride march was held in October. More than 25,000 individuals participated.

LGBT rights activists alleged the restrictions on doctors providing fertility treatments to unmarried persons unfairly discriminated against LGBT persons, who are not permitted to marry.

Employers convicted of discriminating against jobseekers on the basis of sexual orientation face fines of up to NT\$1.5 million (\$46,200).

Other Societal Violence or Discrimination.—There was reported discrimination including employment discrimination, directed against persons with HIV/AIDS. An amendment of the AIDS Prevention and Control Act allows foreign spouses infected

with HIV to remain on Taiwan if they can show they were infected by their spouse or by medical treatment received while on Taiwan. The amended law, renamed the HIV Prevention and Patients' Rights Protection Act, also stipulates that HIV-infected citizens cannot be denied access to education, medical services, housing, or other necessities.

Section 7. Worker Rights

a. The Right of Association.—The right to unionize is protected by law but is highly regulated under the Labor Union Law (LUL).

Some public employees have limited rights to form unions. Teachers and civil servants were allowed to form professional associations to negotiate with the authorities but were not allowed to strike. These restrictions led to a long-running dispute between the authorities and groups representing teachers and civil servants. Foreign workers are not allowed to form their own unions or to assume union leadership positions in existing unions.

A number of laws and regulations limit the right of association. While labor unions may draw up their own rules and constitutions, they must submit them to county and city authorities as well as to the CLA for review. Labor unions may be rejected or dissolved if they do not meet CLA certification requirements or if their activities disturb public order.

As of June approximately 29 percent of the 10.9 million-person labor force belonged to one of the 4,721 registered labor unions. Many of them were also members of one of eight island-wide labor federations.

The right to strike is provided by law, and workers exercised this right in practice. However, legal constraints make it difficult to strike, undermining the usefulness of collective bargaining. Workers may strike over issues of compensation and working schedules, but not living or working conditions. Teachers and defense industry employees are not afforded the right to strike. The law requires mediation of labor disputes when the authorities deem them to be sufficiently serious or to involve unfair practices. The law prohibits labor and management from disturbing the "working order" while mediation or arbitration is in progress. Critics contended the law has a chilling effect on the right to strike because it does not clearly state what conduct is prohibited. The law mandates stiff penalties for violations of no-strike and no-retaliation clauses.

b. The Right to Organize and Bargain Collectively.—The law gives workers the right to organize, bargain, and act collectively, although some positions are not afforded this right.

As of September there were 49 collective bargaining agreements in force; however, they covered only a small proportion of the labor force, mainly in large companies; 95 percent of industrial labor unions had no collective agreements. No special labor laws or labor law exemptions apply to the export processing zones in Kaohsiung and Taichung.

The LUL prohibits discrimination, dismissal, or other unfair treatment of workers because of union-related activities. Labor unions charged that during employee cutbacks labor union leaders were sometimes laid off first or dismissed without reasonable cause. According to the Taiwan Confederation of Trade Unions and the Taiwan Labor Front, there is no specific penalty for the improper dismissal of a labor union leader.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor. However, there were reports that such practices occurred. There was evidence of trafficking in persons into forced labor in such sectors as household caregivers, farming, fishing, manufacturing, and construction (see section 7.e.). The antitrafficking law criminalizes forced labor, and public awareness campaigns included worker education pamphlets, foreign worker hotlines, and Ministry of Education programs on trafficking as part of the broader human rights curriculum.

d. Prohibition of Child Labor and Minimum Age for Employment.—The Labor Standards Law (LSL) stipulates age 15, when compulsory education ends, as the minimum age for employment. County and city labor bureaus effectively enforced minimum-age laws.

e. Acceptable Conditions of Work.—The LSL provides standards for working conditions and health and safety precautions. As of May the LSL covered an estimated 6.5 million of the 7.9 million salaried workers. Those not covered included health-care workers, gardeners, bodyguards, teachers, doctors, accountants, lawyers, civil servants, and domestic workers.

Foreign household caregivers and domestic workers were covered instead by the Employment Services Act, which does not guarantee a minimum wage or overtime pay, set limits on the workday or workweek, or provide for minimum breaks or vaca-

tion time. At the end of June, 172,000 of the 341,000 foreign household caregivers and domestic workers had applied for coverage under the Employment Services Act.

There were no plans to increase the minimum monthly wage of NT\$17,280 (approximately \$532) or the minimum hourly wage of NT\$104 (\$3.20) which were established in 2007. While sufficient in less expensive areas, the minimum wage did not provide a decent standard of living for a single-income family in urban areas such as Taipei. Labor rights activists alleged any benefit to foreign workers from previous increases to the monthly minimum wage failed to cover the increase in the maximum NT\$5,000 (\$154) monthly deduction the CLA allowed employers to collect. The average manufacturing wage was more than double the legal minimum wage, and the average wage for service industry employees was even higher. Nevertheless, the real monthly average wage in the first half of the year at NT\$42,909 (\$1,321) was the lowest in the 13 years. Many workers either lost their jobs or took unpaid leave in the first half of the year. To assist jobless workers, the authorities revised the Employment Insurance Act in May to extend unemployment relief payments from six months to nine months.

Legal working hours were 336 hours per eight-week period (for an average of 42 hours per workweek). A five-day workweek has been mandated for the public sector, and according to a CLA survey, more than half of private sector enterprises also had a five-day workweek.

The law provides standards for working conditions and health and safety precautions and gives workers the right to remove themselves from dangerous work situations without jeopardy to continued employment. There was widespread criticism that the CLA did not effectively enforce workplace laws and regulations. In the first half of the year, CLA's 318 inspectors conducted 80,354 inspections, an increase of 38 percent from the same period in 2008. Those 318 inspectors were responsible for inspecting approximately 300,000 enterprises covered by the Occupational Safety and Health Law. Labor NGOs and academics argued that the labor inspection rate was far too low to serve as an effective deterrent against labor violations and unsafe working conditions.

Regulations require intensified inspection and oversight of foreign labor brokerage companies. NGOs reported that labor brokers and employers regularly collected high fees or loan payments from foreign workers, frequently using debt as a tool for involuntary servitude, and that foreign workers were unwilling to report employer abuses for fear the employer would terminate the contract and forcibly deport them, leaving them unable to pay back debt accrued to brokers or others. An employer may only deduct labor insurance fees, health insurance premiums, income taxes, and meal and lodging fees from the wages of a foreign worker. Violators face fines of NT\$60,000 to 300,000 (approximately \$1,850 to 9,240) and lose hiring privileges. Critics, however, complained that these practices continued and that the CLA did not effectively enforce statutes and regulations intended to protect foreign laborers from unscrupulous brokers and employers.

In 2008 the CLA opened a Foreign Worker Direct-Hire Service Center. The center allowed local employers to rehire their foreign employees, especially caregivers, without a broker. NGOs, however, argued that restrictions on eligibility to use the service prevented widespread implementation and advocated lifting restrictions on transfers between employers. This year the CLA expanded the program to permit rehiring of foreign workers engaged in manufacturing, fishery, construction, and other industries. In April the LY ratified the two UN Human Rights Covenants, including the UN Covenant on Economic, Social, and Cultural Rights, without reservation and passed an implementing law that mandates that the laws meet obligations outlined in the covenants. Civic groups and labor rights advocates lauded these actions but noted room for improvement. NGOs and academics urged the CLA to provide basic labor protections such as minimum wage, overtime, and a mandatory day off for household caregivers and domestic workers.

The NIA is responsible for all immigration-related policies and procedures for foreign workers, foreign spouses, immigrant services, and repatriation of illegal immigrants.

Foreign workers, not victims of trafficking or employer abuse, deemed to have worked illegally faced heavy fines, mandatory repatriation, and a permanent ban on reentering Taiwan.

FIJI

Fiji is a republic with a population of approximately 837,000. The 1997 constitution provided for a ceremonial president selected by the Great Council of Chiefs and

an elected prime minister and Parliament. However, in 2006 the armed forces commander, Commodore Voreqe (Frank) Bainimarama, overthrew the elected government in a bloodless coup d'état. In 2007 the interim military government was replaced by a nominally civilian interim government headed by Bainimarama as prime minister. Bainimarama and his Military Council controlled the security forces.

On April 9, the Court of Appeal declared the coup and the interim government unlawful. On April 10, the government abrogated the constitution, imposed a state of emergency, and began to rule by decree.

Bainimarama's de facto government denied citizens the right to change their government peacefully. In April the de facto government dismissed the entire judiciary and replaced it with its own appointees. It censored and intimidated the media and restricted freedom of speech and the right to assemble peacefully. Other problems during the year included police and military impunity; poor prison conditions; attacks against religious facilities; the dismissal of constitutionally appointed government officials, as well as elected mayors and town councils; government corruption; deep ethnic divisions; violence and discrimination against women; and sexual exploitation of children.

Public Emergency Regulations (PER), initially promulgated April 10 for a three-month period, were repeatedly extended and remained in effect at year's end.

RESPECT FOR HUMAN RIGHTS

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

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

In March trials were held for military personnel and police officers charged in the 2007 deaths of Nimilote Verebasaga and Sakiusa Rabaka. Eight soldiers and one police officer were convicted of manslaughter in the Rabaka case and sentenced to four years' imprisonment. The lone soldier charged in the death of Verebasaga also was convicted of manslaughter and sentenced to three years and three months in prison. However, in May all those convicted in the Rabaka case were released from prison after serving only six weeks of their sentences. The soldier convicted in the Verebasaga case also was released, after serving only two weeks of his sentence. All 10 subsequently were reinstated in the military and police forces. The permanent secretary for information, Lieutenant Colonel Neumi Leweni, asserted that the Prisons Act gave the commissioner of prisons the discretion to allow release of prisoners under compulsory supervision orders for good behavior.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—While the abrogated constitution prohibits such practices, the security forces did not always respect this prohibition in practice. The PER authorize the government to use whatever force is deemed necessary to enforce PER provisions.

The military in some cases assisted the Fiji Independent Commission against Corruption (FICAC) to investigate allegations of corruption, and there were reports members of the military detained and assaulted civilians to obtain evidence in corruption cases.

Amnesty International reported that security forces beat politician Iliesa Duvuloco and several other men detained in April for distributing political pamphlets critical of the government (see section 2.a.) and forced them to perform military-type drills.

Prison and Detention Center Conditions.—Prison conditions did not meet international standards. The national prison system was seriously underfunded, with deteriorating infrastructure and poor delivery of essential services. The system had insufficient beds, inadequate sanitation, and a shortage of basic necessities. There were a large number of prison escapes during the year. The pretrial detention facility at Suva's prison remained closed due to its substandard condition.

There were approximately 1,000 inmates in the country's 14 prisons, of which approximately 100 were pretrial detainees. Of the estimated 900 convicted prisoners, approximately 25 were women and 120 were juveniles. The prisons had a total capacity of 1,080 inmates.

In some cases pretrial detainees and convicted prisoners were held together. Courts released pretrial detainees, including some facing serious charges, on bail to minimize their exposure to an unhealthy and overcrowded prison environment.

The government permitted prison monitoring visits by independent human rights observers. During the year the International Committee of the Red Cross (ICRC) visited official detention facilities and interviewed inmates; such visits were per-

mitted without third parties present. Family members were routinely permitted to visit prisoners.

d. Arbitrary Arrest or Detention.—The constitution prohibits arbitrary arrest and detention, but the government did not always respect this prohibition in practice.

Role of the Police and Security Apparatus.—The Ministry of Home Affairs, headed by the minister for defense, oversees the Fiji Police Force, which is responsible for law enforcement and the maintenance of internal security. After the 2006 dismissal of the police commissioner and his deputy, deputy army commander Captain Esala Teleni was appointed commissioner. Historically responsible for external security, the Republic of Fiji Military Force (RFMF) has maintained since 2005 it has a broad constitutional responsibility for national security that also extends to domestic affairs. Many constitutional scholars in the country rejected that assertion. Under the PER soldiers are authorized to perform the duties and functions of police and prison officers. The RFMF also participated in the awareness campaign to gain support for the People's Charter for Change, Peace, and Progress, a domestic policy initiative of the Bainimarama government.

Police maintained a network of stations and posts throughout the country. Policing of more remote and smaller islands was done through regularly scheduled visits. There was a joint military and police command center based at the Suva Central Police Station. Military personnel were assigned to accompany police patrols and jointly staff police checkpoints.

The police Internal Affairs Unit is statutorily responsible for investigating complaints of police misconduct. FICAC continued to investigate public agencies and officials, including some members of the police and military forces. However, impunity and corruption remained problems. The PER provide immunity from prosecution for members of the security forces for any deaths or injuries arising from use of force deemed necessary to enforce PER provisions.

Arrest Procedures and Treatment While in Detention.—By law police officers may arrest persons without a warrant for violations of the penal code. Police also arrest persons in response to warrants issued by magistrates and judges. Under the constitution arrested persons must be brought before a court without “undue delay,” normally interpreted to mean within 24 hours, with 48 hours as the exception. Detainees have the right to a judicial review of the grounds for their arrest. However, these rights were not always observed by the police and military after the constitution was abrogated. The PER permit the government to detain for up to seven days without charge persons suspected of violating PER provisions.

Following the April abrogation of the constitution, the government detained without charge journalists, lawyers, and nongovernmental organization (NGO) activists for periods up to two days. At least 20 journalists were detained overnight before being released. On April 14, the authorities detained Dor Sami Naidu, president of the Fiji Law Society, after he and other lawyers appeared at the Lautoka High Court to pursue their cases and expressed support for judges and magistrates dismissed by the government; he was released without charge on April 15. Another 20 critics were also arrested, detained overnight, and then released without charge.

There was a generally well-functioning bail system.

Detainees generally were allowed prompt access to counsel and family members, but some journalists and others detained for short periods after criticizing the government were denied prompt access to a lawyer.

The Legal Aid Commission provided counsel to some indigent defendants in criminal cases, a service supplemented by voluntary services from private attorneys.

The courts had a significant backlog of cases, worsened by the government's April dismissal of the existing judiciary. Processing was slowed by, among other things, a shortage of prosecutors and judges. As a result some defendants faced lengthy pretrial detention.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, but during the year the government interfered with judicial independence in practice.

The judicial structure is patterned on the British system. The principal courts are the magistrates' courts, the High Court, the Court of Appeal, and the Supreme Court. Except for the Family Court, Employment Court, and various administrative tribunals, there are no special civilian courts. Military courts try members of the armed forces.

On April 9, a panel of three judges of the Court of Appeal ruled that the 2006 military coup was unlawful, and that the appointment of Bainimarama as prime minister in 2007, and the appointment of his interim cabinet, were unconstitutional.

In response, on April 10, President Ratu Josefa Iloilo signed a decree that abrogated the constitution and terminated the appointments of all judicial officers appointed under the provisions of that constitution. The courts closed for three weeks

and reopened on a limited basis at the end of May after the government made initial appointments to the lower courts. In June and July, high court judges were appointed. Due to a shortage of judges, some high court judges also were appointed to serve concurrently on the Court of Appeal and the Supreme Court, with different individual justices hearing a case referred from one of these higher courts to another. Sittings of the higher courts were deferred, leading to an even greater backlog of cases. The chief registrar also was dismissed and replaced by an army lawyer who was made a magistrate in 2007.

The Administration of Justice Decree of April 16, which reestablished the courts, prohibits all tiers of the judiciary from considering cases relating to the 2006 coup; all acts of the interim government between December 4, 2006 and April 9, 2009; the abrogation of the constitution on April 10; and all government decrees. The military-appointed chief registrar issued termination certificates for all such pending cases.

The government had difficulty reconstituting the judiciary, leading to complaints those appointed after the April dismissal of the existing judiciary were not properly qualified, especially in such complex areas of the law as commercial and contract law. Women's NGOs also asserted that some new magistrates made inappropriate comments and exercised poor judgment in domestic violence and sexual assault cases, and that because of media censorship under the PER, the public was not informed about the mistakes made by these magistrates.

On July 16, the government dismissed the chief magistrate after he protested the firing of another magistrate earlier the same month. On December 2, the government appointed the chief registrar to serve concurrently as chief magistrate. On December 30, the government dismissed as "threats to national security" the assistant director of public prosecutions (DPP) and three more junior prosecutors. Also on December 30, the government dismissed the acting DPP and replaced him with a former soldier and FICAC prosecutor. On the same day, the government terminated, with 24 hours' notice, the contracts of three magistrates it had appointed after the April abrogation of the constitution. While the government gave no reasons for the terminations, there were media reports that one of the magistrates had criticized FICAC for prosecuting a critic of the regime for an alleged restaurant licensing violation (see section 4).

After the constitution was abrogated, the chief registrar also assumed responsibility for prosecuting lawyers for disciplinary breaches before a government-appointed judge. Civil society organizations criticized these additional duties as infringing on the independence of the judiciary.

The government continued to prohibit an International Bar Association (IBA) delegation from visiting the country to evaluate the independence of the judiciary. The government also reiterated its refusal to allow the UN special rapporteur on the independence of judges to visit the country for the same purpose. On March 3, the IBA's Human Rights Institute released a report criticizing the government for taking measures "to influence, control or intimidate the judiciary and the legal profession."

Trial Procedures.—The abrogated constitution provides for the right to a fair trial. Defendants have the right to a public trial and to counsel, and the court system generally enforced these rights in practice during the year. The Legal Aid Commission, supplemented by voluntary services of private attorneys, provided free counsel to some indigent defendants in criminal cases. Most cases were heard in the magistrates' courts, but a case cannot be tried in a magistrate's court without the defendant's consent. Absent such consent, cases are tried in the High Court. Trials in the High Court provide for the presence of assessors, typically three, who are similar to jurors but only advise the presiding judge. Defendants enjoy a presumption of innocence and may question witnesses, present evidence on their own behalf, and access government-held evidence relevant to their cases. The right of appeal exists but often was hampered by delays in the process.

The law extends these rights to all citizens.

The military court system provides for the same basic rights as the civilian court system, although bail is granted less frequently in the military system.

Political Prisoners and Detainees.—There were no reports of political prisoners or long-term political detainees. Police detained for short periods and questioned a number of journalists and others critical of the government.

Civil Judicial Procedures and Remedies.—Although the law provides for an independent and impartial judiciary in civil matters, the judiciary is prohibited by decree from considering lawsuits relating to the 2006 coup, subsequent actions by the interim government, the abrogation of the constitution, and subsequent military decrees. In the event of a human rights violation, under the constitution an individual also could complain to the Fiji Human Rights Commission (FHRC). Although the

government decreed that the FHRC could continue to exist following the constitution's abrogation, it issued a decree on May 20 prohibiting the FHRC from investigating cases filed by individuals and organizations alleging government violations of the constitution and of human rights.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution prohibits such actions, but the government frequently ignored these prohibitions in practice. After the April abrogation of the constitution, the government monitored Internet traffic in an attempt to control antigovernment reports by anonymous bloggers.

RR and nothing further has

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of speech and of the press, but the government generally did not respect these rights in practice after the abrogation of the constitution on April 10.

On April 26, police arrested politician Iliesa Duvuloco and two other men for distributing antigovernment pamphlets. They were detained and questioned at the Nabua police station for seven days and released without charge on May 3. Police in Lautoka detained three other men for distributing the same pamphlets.

Between January and March, unknown assailants attacked with rocks the homes and cars of several antigovernment civilians, including Saikiusa Raivoce, a former RFMF colonel and vocal antigovernment critic; unionist and politician Attar Singh, head of the New Movement for Democracy; and lawyer Akuila Naco. On March 22, unknown assailants attacked Raivoce's home and that of Fiji Times editor in chief Netani Rika with Molotov cocktails. At year's end police investigations had not resulted in any arrests or prosecutions. On August 3, police arrested and detained Raivoce; he was held overnight and released without charge on August 4.

Prior to April 10, the independent media were active and expressed a wide variety of views, albeit with some degree of self-censorship due to government intimidation. The country's television news program production was owned and operated by Fiji One, one of two national noncable television stations. A trust operated by the Ministry of Fijian Affairs, on behalf of Fiji's provincial councils, owned 51 percent of Fiji One; the remainder was privately held. The government owned the Fiji Broadcasting Corporation, which operated six radio stations, and also retained a shareholding of less than 20 percent in the Daily Post newspaper.

During the year the government harassed, intimidated, and in some cases detained for questioning a number of journalists in response to reporting critical of the government.

On April 10, police raided the Fiji Times after a complaint from the chairman of the Public Service Commission, who alleged that the Times was in possession of a petition signed by ministry of finance staff against the military-appointed acting permanent secretary, John Prasad, alleging that Prasad was unqualified for the position.

Over the following days, police detained a number of journalists for up to 24 hours, including Edwin Nand, a Fiji TV journalist, on April 13; Fiji Times photographer Jai Prasad, Fiji TV reporter Ranbeer Singh, and Fiji TV cameraman Harry Tabanidalo on April 14; and Kawai Damu of online news service Fijilive on April 15. All were released without charge.

On April 16, police arrested Pita Ligaiula, a local journalist and stringer for Agence France Presse, for articles he had written that appeared in The Australian newspaper. Ligaiula was released the next day. During his detention security officials intimidated and threatened him with imprisonment under PER provisions. Also on April 16, authorities told three journalists working for regional news organizations (Samisoni Pareti of Radio Australia, Makereta Komai of the Pacific regional news service Pacnews, and Radio New Zealand stringer Matelita Ragogo) to start practicing the "journalism of hope" and refrain from any negative reporting about the government, or face tough penalties from the authorities.

On May 9, police arrested Fijilive journalists Dionisia Tabureguci and Shelvin Chand, and detained them under the PER for a report they published on the fijilive.com Web site regarding the release of several soldiers and a policeman who had been convicted of manslaughter for the death of Sakiusa Rabaka in 2007. The report was removed from the Web site after 30 minutes when police visited the Fijilive office and arrested the two journalists. On May 11, police released Tabureguci and Chand with a warning after they had spent two nights in custody.

The PER authorize the Ministry of Information and police to vet all news stories before publication, resulting in the removal of all stories the government deemed "negative" and "inciteful," and therefore, according to the government, a threat to national security. All radio stations were required to submit their news scripts to

the permanent secretary for information, a military appointee, before each news bulletin was broadcast, and the print and television media were censored on a daily basis by Ministry of Information and military media cell officers, accompanied by police officers, who were placed in media newsrooms.

On May 14, police in Labasa detained Theresa Ralogaivau, a Fiji Times journalist, for seven hours regarding a story published on May 11 about a group of persons who were allegedly growing marijuana in Labasa. Although the story had been vetted by the government censor in the Times newsroom, it had quoted a police spokesperson who later denied that he had spoken to Ralogaivau. Police claimed that Ralogaivau was in breach of the PER because she had not spoken with the spokesperson quoted in the story.

The Media Council, a voluntary private watchdog group of media and academic figures, receives and seeks to resolve complaints of bias and malfeasance within the media. However, the continuous extension of the PER ensured government control over newspaper content through censors.

In November the government revoked all broadcasting licenses, ostensibly to allow a review of signal bands. Television and radio stations were issued temporary licenses pending completion of the review, which was in progress at year's end.

Legislation pertaining to the press is contained in the Newspaper Registration Act and the Press Correction Act. Under these acts all newspapers must register with the government before they can publish. The acts give the minister of information sole discretionary power to order a newspaper to publish a "correcting statement" if, in the minister's view, a false or distorted article was published. A newspaper refusing to publish the minister's correction may be sued in court and, if found guilty, fined. Individuals in such cases may be fined, imprisoned for six months, or both. These laws authorize the government to arrest any person who publishes "malicious" material. This would include anything the government considers false, likely to create or foster public alarm, or result in "detriment" to the public. However, this specific authority has never been used.

On January 22, the High Court fined the Fiji Times F\$100,000 (approximately \$51,800) and imposed a three-month suspended prison sentence on its editor in chief, Netani Rika, for contempt of court. A contempt case against the Daily Post was still pending at year's end. In November 2008 the interim government had pursued contempt of court proceedings against the Times and the Post after they published a letter to the editor criticizing a 2008 High Court decision upholding the interim government's legitimacy.

In July the acting chief registrar cancelled pending court cases against the government by the Fiji Sun and Fiji Times for the 2008 deportations of their respective publishers, Russell Hunter and Evan Hannah, in accordance with the April 16 decree that terminated all pending challenges against the 2006 coup and actions of the interim government between December 4, 2006 and April 9, 2009.

The 1992 Television Decree permits the government to influence programming content. The government did not attempt to use this specific programming authority during the year, but it censored television news program content under the PER.

Internet Freedom.—There were no government restrictions on general public access to the Internet, but evidence suggested that the government monitored private e-mails of citizens (see section 1.f.).

The International Telecommunication Union reported that approximately 12 percent of the country's inhabitants used the Internet in 2008. The Internet was widely available and used in and around urban centers, and the majority of the population lived in areas with Internet coverage. However, low-income persons generally could not afford individual service, and other public access was very limited. Access outside urban areas was minimal or nonexistent.

After the abrogation of the constitution, the government closed Internet cafes at 5:00 p.m. each evening in an attempt to limit anonymous antigovernment blogging and citizens' access to news items on Fiji in the overseas media. Beginning in July Internet cafes were allowed to remain open beyond 5:00 p.m., after paying a fee to local officials.

On May 21, police executed search warrants at the offices of three prominent lawyers—Tevita Fa, Richard Naidu, and Jon Apted—accused of anonymous antigovernment blogging. Fa was the lawyer for deposed prime minister Laisenia Qarase, while Naidu and Apted had criticized the 2006 coup and represented litigants challenging actions of the interim government. In 2007 the interim government had instructed all government departments, statutory bodies, and companies to cease giving legal work to Naidu and Apted's law firm, Munro Leys. Police questioned the three lawyers and copied their computer hard drives before releasing them without charge.

Academic Freedom and Cultural Events.—Academic freedom was generally respected; however, government work-permit stipulations prohibit foreigners from participating in domestic politics. University of the South Pacific contract regulations effectively restrict most university employees from running for or holding public office or holding an official position with any political party.

b. Freedom of Peaceful Assembly and Association.—*Freedom of Assembly.*—The abrogated constitution provides for freedom of assembly, but since the 2006 coup, the government has interfered with this right in practice. The PER allow the government to refuse applications for permits for marches and meetings sought by antigovernment political parties and NGOs, and to regulate—including by use of such force as deemed necessary—the use of any public place by three or more persons. Although some civic organizations were granted permits to assemble, permits for all political demonstrations and marches were denied. Bainimarama and the police commissioner discouraged public dissent and politically oriented public gatherings by warning that security forces would actively enforce public order laws.

Police denied the Fiji Law Society's application for a permit to hold a special general meeting to discuss the April abrogation of the constitution. The provincial administrator of Sigatoka initially granted the permit, but it was later nullified by the commissioner of the Central Division, one of four military officers appointed by Bainimarama to head the country's four geographic divisional administrations (see section 3). The police commissioner also denied the permit. The authorities also refused the Law Society's application for a permit to hold its regular annual general meeting in September.

Police banned three prominent individuals critical of the government, including historian and constitutional scholar Brij Lal, an Australian citizen of Fijian origin and a professor at Australian National University, from speaking at the Fiji Institute of Accountants' annual conference on June 12. Police instructed the institute to remove the three speakers from the conference agenda in order for a permit to be granted to allow the conference to proceed. In November Lal was deported to Australia. The government also refused a permit for the Methodist Church, which historically has been associated with ethnic Fijian nationalism, to hold its annual conference (see section 2.c.).

Freedom of Association.—The abrogated constitution provides for freedom of association. During the year the government did not restrict persons from joining NGOs, professional associations, or other private organizations, but some were not permitted to hold meetings with their members.

c. Freedom of Religion.—The abrogated constitution provides for freedom of religion. Although the government generally respected this right in practice, during the year there were a number of instances in which the government interfered with this right. Some municipal restrictions on opening hours for businesses during Christmas and Easter were imposed on all communities, not just those that were predominantly Christian.

In May the government began a crackdown on Methodist pastors opposed to the government. From May 14 to 15, authorities detained Manasa Lasaro, a former president of the Methodist Church, to which approximately 30 percent of the population belongs, for writing a proposal for peaceful protests against the government. On May 29, the military issued an unsigned statement declaring that the Methodist Church would not be allowed to hold its 2009 annual conference. On July 19, the church's executive body decided to proceed with the conference despite the permit denial. On July 21, police and military officers detained Ro Teimumu Kepa, minister of education in the ousted Qarase government and the paramount chief of Rewa Province, where the conference was to be held. Police and military officers also detained and questioned the church's president, general secretary, and seven other senior church officials. All were held at military headquarters in Suva until July 23, when Kepa and four of the nine detained Methodist officials were charged with various offenses relating to breach of public order and released on bail. Subsequently five additional church officials also were charged with offenses related to their roles in organizing the conference. All those charged were subjected to strict bail conditions, which prevented them from communicating with each other, traveling, or taking part in church meetings and other church events. At year's end the cases remained pending. In October police and military officers stopped an induction service for senior Methodist Church officials from taking place. The government stated that the ministers could not be inducted while court proceedings were pending against them.

During the year Souls for Jesus, also known as the New Methodist Church, an evangelical Christian group founded and headed by the brother of police commissioner Teleni, spearheaded so-called "crusades" sponsored by the police under

Teleni's direct leadership as part of an anticrime campaign. All police personnel and their families, regardless of their religion, were required to attend these evangelical events, and there were reports that non-Christian officers and their families were pressured to convert to Christianity. There also were reports of Hindu and Muslim officers joining the commissioner's church for fear of being denied promotions or losing their jobs.

Societal Abuses and Discrimination.—Racial polarization was reflected in religious differences, which were largely along ethnic lines; this contributed to political problems. Most ethnic Fijians were Christians, and most Indo-Fijians were Hindu, with a sizable minority of Muslims. The dominant Methodist Church has closely allied itself with the interests of the pro-indigenous-Fijian movement.

Break-ins, vandalism, and arson directed at houses of worship, predominantly Hindu temples, were common. The attacks were broadly viewed as reflections of intercommunal tensions, although there was often evidence that theft was a contributing motive. There was no known Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The abrogated constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, but the government frequently restricted or denied these rights in practice. The PER authorize the government to prohibit, restrict, or regulate movement of persons.

The government maintained a list of persons banned from leaving the country, including human rights activists and lawyers. Names on the list were not made public; would-be travelers discovered their inclusion when they were turned back by airport immigration authorities. Some persons prohibited from leaving the country challenged the ban in court in 2007, but the chief registrar terminated their cases under the provisions of the Administration of Justice Decree.

A court imposed strict bail conditions on former prime minister Qarase, who was charged with abuse of office, prohibiting him from traveling out of the country on the grounds that such travel would pose a "threat to national security." The government had objected to interviews Qarase gave on Australian television during a 2008 visit to family members in Australia.

The government provided nominal cooperation with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

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

Protection of Refugees.—The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, but until 2008 the law did not specifically provide for the granting of refugee status or asylum. In February 2008 the government published a notice authorizing the entry into force of refugee-related provisions of the 2003 Immigration Act. However, by year's end the government had not established a system for providing protection to refugees. The government does not have an established procedure for providing protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

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

Although the abrogated constitution provides citizens the right to change their government peacefully, citizens did not have this right in practice. The country continued to be ruled by a military-dominated government following the 2006 military overthrow of the popularly elected government, and at year's end Parliament and the Great Council of Chiefs remained suspended. Effective January 31, the government dissolved the country's 12 elected municipal councils, many of which had criticized the government, and replaced them with six government-appointed special administrators who each administer two municipal councils. The administrators each report to the minister for local government. During the year four military officers were appointed as divisional commissioners (for the Central/Eastern, Western, Southern, and Northern Divisions).

Elections and Political Participation.—The most recent elections, held in 2006, were judged generally free and fair. Party politics was largely race based, although this did not limit participation in the political process. The governing Soqosoqo Duavata ni Lewenivanua (SDL) party was primarily ethnic Fijian, and the Fiji

Labour Party (FLP), the second-largest party, was primarily Indo-Fijian, although both had membership across racial lines. After the elections the SDL established a multiparty cabinet with the FLP as required by the constitution. This government was removed by the RFMF under the leadership of Commodore Bainimarama during the 2006 coup.

On April 9, when the Court of Appeal ruled that the coup and the appointment of Bainimarama's government were unlawful, Bainimarama resigned the position of prime minister; the president reappointed him on April 10 after abrogating the constitution. At year's end the PER continued in force, and the government continued to rule by decree. Bainimarama has declared that political reforms are necessary before elections can resume, and repeatedly postponed national elections. On April 10, President Iloilo stated that five years would be necessary to implement the necessary reforms, and that elections (previously promised for 2009) would be held by 2014.

In July President Iloilo resigned, and in October the cabinet appointed Ratu Epeli Nailatikau as president.

There was one woman in the 11-member cabinet. Women played important roles in the traditional system of chiefs and some were chiefs in their own right. The government's suspension of the Great Council of Chiefs removed one forum where women exercised political influence.

At year's end there were two Indo-Fijian ministers in the cabinet and no other minority ministers. Indo-Fijians, who accounted for 37 percent of the population, continued to be underrepresented at senior levels of the civil service and greatly so in the military. Indo-Fijians comprised approximately 35 percent of the civil service overall.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, corruption, including within the civil service, has been a significant problem for post-independence governments, and officials frequently engaged in corrupt practices with impunity.

Despite measures by the government during the year to combat corruption within the bureaucracy, systemic corruption continued. In the absence of parliamentary oversight and other checks and balances, much government decision making was not transparent. The media raised numerous allegations of nonaccountability, abuse of office, fraud, nepotism, misuse of public property, financial mismanagement, failure to complete statutory audits, and conflicts of interest regarding officials and ministries during the year. In 2008 the auditor general announced that in the absence of a sitting Parliament, audit reports would be submitted to the cabinet, but would not be made public. This practice continued during the year. The cabinet referred such reports to a government-appointed Public Accounts Committee for review.

Under the Bainimarama government, many military personnel were appointed to positions within government ministries, the diplomatic corps, the police force, and other agencies, ostensibly to improve the inefficient bureaucracy.

Public officials are not subject to financial disclosure laws. FICAC is the primary body responsible for combating government corruption.

In December FICAC charged Ratu Sakiusa Tuisola, a critic of the government and the husband of human rights lawyer Imrana Jalal, with offenses related to operation of a restaurant without a business license, normally a misdemeanor adjudicated by municipal authorities. Jalal was charged with the same offenses on January 1, 2010. Tuisola and Jalal maintained that businesses in Suva typically operated while waiting for license issuance, and that the FICAC charges were politically motivated.

The corruption case of former prime minister Qarase remained pending at year's end, and Qarase remained free on bail. In March 2008 he was charged with abuse of office related to business transactions prior to becoming prime minister, and in May 2008 FICAC charged him with further abuse of office during his tenure as prime minister.

In May UN officials visited the country for three days to assess its compliance with the Convention against Corruption as part of a UN pilot project in which the country volunteered to participate. The project was continuing at year's end.

Although the constitution instructed Parliament to enact a freedom of information law as soon as practicable, no such law has been enacted. The government was frequently unresponsive to public requests for government information. A 2008 amendment to a government decree allows FICAC to prosecute the offense of "misconduct in public office." The amendment gives FICAC authority to prosecute civil servants who divulge confidential government information to noncivil servants.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The government continued to scrutinize the operations of local and international NGOs, engendering a climate of uncertainty within the NGO community. Most NGOs practiced varying degrees of self-censorship. Government officials were only cooperative and responsive to the views of NGOs that avoided criticizing the coup and the government.

There were several NGOs that concentrated on a variety of local human rights causes, such as the Pacific Regional Rights Resource Team, the Citizens' Constitutional Forum, the Fiji Women's Rights Movement, and the Fiji Women's Crisis Center.

There were instances of government harassment of NGOs critical of the interim government. For example, on April 15, police in Suva detained Young People's Concerned Network member and human rights activist Peter Waqavonovono for several hours and warned him about the implications of the PER.

Although the FHRC was reestablished by decree after the abrogation of the constitution, it was not authorized to investigate complaints against the abrogation, other actions of the government, or the 2006 coup.

The ICRC continued to operate in the country. A number of UN organizations concerned with human rights had regional offices in the country and sought to work with the government on various human rights issues.

In May the major regional organization Pacific Islands Forum (PIF), whose secretariat is headquartered in Fiji, suspended the country from the organization in response to Bainimarama's failure to address expectations "to return Fiji to democratic governance in an acceptable time-frame," in addition to other concerns expressed in a statement by the PIF Leader's Roundtable in January. The government refused to accredit and permit entry to the country of three high-ranking PIF secretariat staff and blocked customs clearance of secretariat supplies.

The Commonwealth of Nations suspended Fiji in September, citing Bainimarama's failure to reactivate a dialogue that would lead to democratic elections by October 2010.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on race, sex, place of origin, ethnicity, sexual orientation, color, primary language, economic status, age, or disability. The government generally enforced these provisions effectively, although there were problems in some areas. After the constitution's abrogation, only the government's Employment Relations Decree had similar provisions, but these are limited to workers and industrial relations matters.

Women.—Rape, domestic abuse, incest, and indecent assault were significant problems. The penal code provides for a maximum punishment of life imprisonment for rape; however, most rapes were prosecuted in the magistrates' courts, which have a sentencing limit of 10 years. There were inconsistencies in the sentences imposed for rape by different magistrates; sentences generally ranged from one to six years' imprisonment. The NGOs Fiji Women's Rights Movement and Fiji Women's Crisis Center pressed for more consistent and severe punishments for rape. The Court of Appeal has ruled that 10 years is the minimum appropriate sentence in child rape cases. Women's rights activists continued to press for the formal criminalization of spousal rape, which is not a specific offense; however, in the past husbands have been convicted under the general rape law of raping their wives.

In August the government promulgated a decree creating a specific domestic violence offense; however, the decree had not come into force by year's end, and domestic violence cases continued to be prosecuted as assault. Police claimed to practice a "no-drop" policy, under which they pursued investigations of domestic violence cases even if a victim later withdrew her accusation. However, women's organizations reported that police were not always consistent in their observance of this policy. Courts dismissed some cases of domestic abuse and incest or gave the perpetrators light sentences. Women's organizations reported an increase in abuse and violence against women after the abrogation of the constitution in April. They stated that the practices of selecting judges supportive of the government and censoring news stories critical of police and judges had led to poorer handling of abuse cases. Incest was widely believed to be underreported. Traditional practices of reconciliation between aggrieved parties were sometimes taken into account to mitigate sentences in domestic violence cases, and in many cases offenders were released without a conviction on the condition they maintain good behavior, rather than jailed. An active women's rights movement sought to raise public awareness of domestic violence.

Four women's crisis centers funded by foreign governments operated in the country. The centers offered counseling and assistance to women in cases of domestic violence, rape, and other problems, such as lack of child support.

Prostitution is illegal, but it occurred, particularly in cities. Sex tourism is prohibited by law but reportedly occurred, particularly in tourist centers such as Nadi and Savusavu, including cases involving children. Taxi drivers, hoteliers, bar workers, and others reportedly acted as middlemen, facilitating the commercial sexual exploitation of children.

The Human Rights Commission Act specifically prohibits sexual harassment, and criminal laws against "indecent assaults on females" prohibit offending the modesty of women and have been used to prosecute sexual harassment cases. Under the 2008 Employment Relations Decree, sexual harassment in the workplace is a specific ground of complaint that can be filed by workers. The Ministry of Labor reported that one sexual harassment complaint had been filed under the decree; it was pending before the Employment Relations Tribunal at year's end.

Couples and individuals have the right to decide freely the number, spacing, and timing of their children. The government provided family planning services, and women had access to contraceptives free of charge at public hospitals and clinics, and for a nominal charge if prescribed by a physician. However, unmarried and young women generally were discouraged from undergoing tubal ligation for birth control, and public hospitals, especially in rural areas, often refused to perform the operation on unmarried women who requested it. Nurses and doctors often required the husband's consent before carrying out the operation on a married woman, although there is no legal requirement for such consent. Most women gave birth in hospitals, where skilled attendance at birth and essential obstetric and postpartum care were available. Women had equal access to diagnosis and treatment for sexually transmitted infections, including HIV.

Women have full rights of property ownership and inheritance rights, but in practice often were excluded from the decision-making process on disposition of communal land, which constituted more than 80 percent of all land. Many women were successful entrepreneurs. Other than a prohibition on working in mines, there were no legal limitations on the employment of women. The Employment Relations Decree prohibits discrimination on the basis of gender. In practice, however, women generally were paid less than men for similar work. According to the Asian Development Bank, approximately 30 percent of the economically active female population was engaged in the formal economy, and a large proportion of these women worked in semisubsistence employment or were self-employed.

The Ministry for Women worked to promote women's legal rights.

Children.—Citizenship is derived both by birth within the country and through one's parents.

The government devoted approximately 25 percent of the national budget to education and also worked to improve children's health and welfare. School is mandatory until age 15, but the inability of some families to pay for uniforms, school fees, and bus fares limited attendance for some children.

Corporal punishment was common both in homes and in schools, despite a ministry of education policy forbidding it in the classroom. Increasing urbanization, overcrowding, and the breakdown of traditional community and extended family-based structures led to an increasing incidence of child abuse and appeared to be factors that increased a child's chance of being exploited for commercial sex. Child prostitution was reported among high school students and homeless and jobless urban youth.

Commercial sexual exploitation of children continued to occur during the year. Under the penal code, commercial sexual exploitation of children is a misdemeanor, punishable by sentences of up to two years' imprisonment. It is also an offense for a householder or innkeeper to allow commercial sexual exploitation of children in his or her premises, but there were no prosecutions or convictions under this provision during the year. Children's rights advocates criticized existing law as inadequate and called for more severe criminal sanctions.

Under a July decree, the marriage age for girls was raised from 16 to 18, the same as for boys.

The minimum age for consensual sex is 16. The maximum penalty is life imprisonment in the case of a person who has sexual relations with a girl under age 13, and five years' imprisonment in the case of a person who has sexual relations with a girl between age 13 and age 15. However, in the latter case it is considered a sufficient defense to establish that the perpetrator had "reasonable cause" to believe the girl was age 16 or older. Despite the maximum penalties provided for, magistrates have sometimes imposed sentences as low as two years' imprisonment in such cases.

Child pornography is illegal under the Juveniles Act. The maximum penalty for violators is 14 years' imprisonment and/or a maximum fine of F\$25,000 (approximately \$12,950) for a first offense and life imprisonment and/or a fine of up to F\$50,000 (approximately \$25,900) for a repeat offense, and the confiscation of any equipment used in the commission of the offense.

Increasing urbanization led to more children working as casual laborers, often with no safeguards against abuse or injury.

Trafficking in Persons.—The law prohibits trafficking in persons, with penalties of up to 20 years' imprisonment and fines of up to F\$750,000 (approximately \$388,600) for convicted traffickers. Several citizens of China who entered Fiji on student visas and were arrested for prostitution may have been trafficked. However, no further investigations were conducted before the women were deported to their country of origin. During the year there were some reports of commercial sexual exploitation of children within the country.

Although the government expressed an intention to combat trafficking in persons more vigorously, during the year it did not sponsor or provide assistance to any programs specifically designed to combat or prevent such trafficking. The government has pursued criminal charges against some persons it termed trafficking victims, jailing some and deporting alleged victims with no effort at rehabilitation.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip/.

Persons With Disabilities.—Under the constitution abrogated in April, all persons are considered equal under the law, and discrimination against persons with disabilities in employment, education, provision of housing and land, or provision of other state services is illegal. Since the constitution's abrogation, no new decree has addressed specifically the rights of persons with disabilities; however, existing statutes provide for the right of access to places and all modes of transport generally open to the public. Public health regulations provide penalties for noncompliance; however, there was very little enabling legislation on accessibility for persons with disabilities, and there was little or no enforcement of laws protecting them. Building regulations require new public buildings to be accessible to persons with disabilities, but only a few existing buildings met this requirement. Under the Health and Safety at Work Act, all new office spaces must be accessible to persons with disabilities. There were only a small number of disabled-accessible vehicles in the country. There were a number of community organizations to assist those with disabilities, particularly children.

Most persons with mental disabilities were separated from society and typically were supported at home by their families. Institutionalization of persons with severe mental disabilities was in a single overcrowded, underfunded public facility in Suva. There were a number of special schools for persons with physical, cognitive, and sensory disabilities; however, cost and location limited access. Opportunities for a secondary school education for those with disabilities were very limited.

The government-funded Fiji National Council for Disabled Persons worked to protect the rights of persons with disabilities. Several NGOs also promoted attention to the needs of persons with various disabilities.

National/Racial/Ethnic Minorities.—Tension between ethnic Fijians and Indo-Fijians has been a longstanding problem. Indigenous Fijians make up 57 percent of the population, Indo-Fijians comprise 37 percent, and the remaining 6 percent is composed of Europeans, Chinese, and Rotuman and other Pacific Islander communities. The abrogated constitution notes that "the composition of state services at all levels must be based on the principle of reflecting as closely as possible the ethnic composition of the population," but a nonjusticiable compact in the constitution also cites the "paramountcy" of Fijian interests as a guiding principle. The compact also provides for affirmative action and "social justice" programs to "secure effective equality" for ethnic Fijians and Rotumans, "as well as for other communities." The compact chiefly benefited the indigenous Fijian majority. The government publicly stated its opposition to such policies, which it characterized as racist, and called for the elimination of discriminatory laws and practices that favor one race over another; however, as of year's end, most remained in place. The government's reform priorities, including reform of discriminatory laws and practices, were part of a political dialogue process with political parties that stalled and was not reconvened after the abrogation of the constitution.

On September 8, the cabinet approved implementation of a new intake policy for the Fiji School of Nursing, under which considerations of geography and disadvantaged status would replace existing ethnicity-based entry quotas.

Prior to the 2006 coup, most postindependence governments pursued a policy of political predominance for ethnic Fijians. Land tenure remained a highly sensitive

and politicized issue. Ethnic Fijians communally held approximately 87 percent of all land, the government held approximately 4 percent, and the remainder was freehold land, which private individuals or companies may hold.

Ethnic Fijians' traditional beliefs, cultural values, and self-identity are closely linked to the land. Most cash-crop farmers were Indo-Fijians, the majority of whom are descendants of indentured laborers who came to the country during the British colonial era. Virtually all Indo-Fijian farmers were obliged to lease land from ethnic Fijian landowners. Many Indo-Fijians believed that their very limited ability to own land and their consequent dependency on leased land from indigenous Fijians constituted de facto discrimination against them. A pattern of refusals by ethnic Fijian landowners to renew expiring leases continued to result in evictions of Indo-Fijians from their farms and their displacement to squatter settlements. Many indigenous Fijian landowners in turn believed that the rental formulas prescribed in the national land tenure legislation discriminated against them as the resource owners. This situation contributed significantly to communal tensions.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The abrogated constitution prohibits discrimination on the basis of sexual orientation. The preexisting penal code criminalizes homosexual acts between males, but the judiciary has held these provisions to be unconstitutional. The Employment Relations Decree prohibits discrimination in employment based on sexual orientation.

The gay, lesbian, bisexual, and transgender NGO "Equal Ground Pasifik" operated in the country. There were no reports of impediments to its operation.

There was some societal discrimination against persons based on sexual orientation, although there was no systemic discrimination. There were no known cases of violence based on sexual orientation or gender identity.

Other Societal Violence or Discrimination.—There was some societal discrimination against persons with HIV/AIDS, although it was not systemic. There were no known cases of violence targeting persons with HIV/AIDS.

Section 7. Worker Rights

a. The Right of Association.—The constitution and law protect the rights of workers to form and join unions, elect their own representatives, publicize their views on labor matters, and determine their own policies, but the authorities did not always respect all of these rights in practice. After the constitution was abrogated, unions reported considerable government interference with, and denial of, their right to organize.

An estimated 31 percent of the work force was unionized. While some unions were ethnically based, most were not, and both Indo-Fijians and ethnic Fijians held leadership roles in the trade union movement. All unions must register with, but are not controlled by, the government. The Employment Relations Decree gives unions the right to appeal to the Employment Relations Tribunal (ERT) against an adverse decision by the trade union registrar. Major trade unions reported instances of the government using the ERT in a biased fashion to shut down negotiations and appeals.

The law allows restrictions on the right of association if necessary in the public interest or to protect national security, and police, military, and prison personnel are prohibited from forming or joining a union.

The law provides for the right to strike, except in the case of police, military, and prison personnel; their working conditions are covered under separate laws. Unions can conduct secret strike ballots, but must give the registrar 21 days' notice. The Ministry of Labor also must be notified and receive a list of all striking employees and the starting date and location of the strike. This requirement is intended to give organizers, unions, employers, and the ministry time to resolve the dispute prior to a strike. To carry out a legal strike, organizers of strikes in certain "essential services"—including, for example, emergency, health, fire, sanitary, electrical, and water services; telecommunications; air traffic control; and fuel supply and distribution—must give an employer an additional 28 days' notification.

The law permits the minister of labor to declare a strike unlawful and refer the dispute to the ERT; in these circumstances workers and strike leaders can face criminal charges if they persist in strike action.

There were strikes during the year, some of which were declared unlawful by the government and at year's end were in arbitration proceedings.

b. The Right to Organize and Bargain Collectively.—Workers have the right to organize and bargain collectively. However, wage negotiations generally were conducted at the level of individual companies rather than industrywide. Traditional key sectors of the economy, including sugar and tourism, were heavily unionized.

Although the law allows unionization, union organizers' jobs were not protected, resulting in low unionization in some sectors.

Under the Employment Relations Decree, any trade union with six or more members may enter into collective bargaining with an employer. The decree allows individual employees, including nonunionized workers, as well as unions to bring a dispute with employers before the permanent secretary for labor for mediation. Nonunionized workers made up the majority (approximately 70 percent) of the work force. Individuals, employers, and unions on behalf of their members may submit employment disputes and grievances alleging discrimination, unfair dismissal, sexual harassment, or certain other unfair labor practices to the Ministry of Labor. If mediation fails, the authorities may refer the dispute to the ERT; the ERT's decision can be appealed to the Employment Court (a division of the High Court) and from there, to the Court of Appeal.

Since the constitution was abrogated, unions reported that the government used the mediation process to punish unions deemed insufficiently cooperative with government policies, interrupting the collective bargaining process, interfering with mediation, and denying appeals for unrelated political reasons.

Under the Employment Relations Decree, it is an offense for an employer to victimize any worker or make it a condition of employment for a worker not to belong to a union, but union organizers were occasionally vulnerable to dismissal or to other interference by employers, particularly when operating on company premises.

Export processing zones (EPZs) are subject to the same laws as the rest of the country. Labor groups reported continuing difficulties organizing workers in the EPZs, however, due to fear of employer reprisals. With the decline of the garment industry in the country, the number of workers employed in the EPZs also declined significantly.

c. Prohibition of Forced or Compulsory Labor.—The constitution prohibits forced or compulsory labor, but there were reports of commercial sexual exploitation of children.

d. Prohibition of Child Labor and Minimum Age for Employment.—Enforcement of existing child labor regulations was inadequate and failed to protect children fully from workplace exploitation. Under the law children under age 12 may not be employed except in a family-owned business or agricultural enterprise. Although the law provides that education is compulsory up to age 15, children between ages 12 and 15 may be employed on a daily wage basis in nonindustrial work not involving machinery, provided they return to their parents or guardian every night. Persons between ages 15 and 17 may be employed in certain occupations not involving heavy machinery; however, they must be given specified hours and rest breaks. The Ministry of Labor deployed inspectors nationwide to enforce compliance with labor laws, including those covering child labor. However, there was no comprehensive government policy to eliminate the worst forms of child labor. During the year migration of rural youth to urban areas continued, and youths continued to find employment in the informal sector, including work as shoeshine boys, casual laborers, and prostitutes. Children as young as age 11 worked as full-time laborers in the sugar cane industry.

e. Acceptable Conditions of Work.—There was no single, national minimum wage, although the Wages Councils set minimum wages for certain sectors. The councils comprise representatives of both workers and employers and are required to publish wage proposals and provide the public, unions, and employers 30 days to comment on the proposals. Once the councils have prepared a final wage order, it must be approved by the minister of labor. The Labor Ministry enforced minimum wages through its Labor Inspectorate. On July 1, minimum wage increases went into effect in nine industrial sectors. Entry-level wages in unregulated sectors, especially service industries, provided a sparse and often only marginally adequate standard of living for a worker and family.

There is no single national limitation on maximum working hours for adults; however, there are restrictions and overtime provisions in certain sectors. Workers in some industries, notably transportation and shipping, worked excessive hours.

There are workplace safety laws and regulations, and a worker's compensation act. Safety standards apply equally to citizens and foreign workers; however, government enforcement suffered from a lack of trained personnel and delays in compensation hearings and rulings. Unions generally monitored safety standards in organized workplaces, but many work areas did not meet standards, and not all were monitored by the Ministry of Labor for compliance. The law accords employees the right to remove themselves from a hazardous worksite without jeopardizing their employment, but most feared the loss of their jobs if they did so.

INDONESIA

Indonesia is a multiparty democracy with a population of approximately 245 million. On July 8, Susilo Bambang Yudhoyono was reelected president in generally free and fair elections. April 9 legislative elections were complex, but domestic and international observers judged them generally free and fair as well. Civilian authorities generally maintained effective control of the security forces, although the fact that the Indonesian Armed Forces (TNI) continued to be partly self-financed weakened this control.

The government generally respected the human rights of its citizens and upheld civil liberties. Nonetheless, there were problems during the year in the following areas: killings by security forces; vigilantism; harsh prison conditions; impunity for prison authorities and some other officials; corruption in the judicial system; limitations on free speech; societal abuse and discrimination against religious groups and interference with freedom of religion, sometimes with the complicity of local officials; violence and sexual abuse against women and children; trafficking in persons; child labor; and failure to enforce labor standards and worker rights.

During the year the country continued to make progress in strengthening and consolidating its democracy. For example, the Indonesian National Police adopted a use of force policy that strictly proscribes the use of deadly force and allows it to track and minimize the use of force by police. The government also continued the prosecutions of high-level officials for corruption.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, security force personnel committed a number of killings in the course of apprehending alleged criminals and terrorists.

On April 2, the North Jakarta police allegedly beat and shot Bayu Putra Perdana while he was in custody. According to a hospital autopsy, Bayu died as a result of torture.

The police continued vigorous action against accused terrorists. On August 7-8, the following members of the terrorist Jemaah Islamiya (JI) were killed in the course of raids on terrorist safe houses: Ibrohim, Air Setyawan, and Eko Joko. On September 16-17, in an exchange of gunfire, police killed the following additional JI members: Noordin M. Top, Hadi Susilo, Bagus Budi Pranoto, and Ario Sudarso.

Violence affected the provinces of Papua and West Papua during the year. For example, on the legislative election day, April 9, a group armed with traditional weapons attacked a police station in Bepura, police killed one of the attackers; in a separate incident, police in Nabire reportedly arrested protestor Abet Nego Keiya and allegedly punched, kicked, and beat him with rifle butts and stabbed him with bayonets until he died. On June 6, police killed two persons while recapturing an airstrip in Memberamo Raya District; a local official was also killed and four police were seriously injured. On June 24, police shot and killed Melkias Agape in the city of Nabire. On June 30, Police Mobile Brigade (BRIMOB) officers shot and killed Mika Boma and injured another four persons during a clash with rioters in Paniai. On August 3, members of the BRIMOB allegedly shot and killed tribal leader and former political prisoner Yawan Wayeni at his house in Mantembu village, Yapen Island, Papua. On December 16, the well-known separatist leader Kelly Kwalik died following a reported exchange of gunfire with police. Kwalik was armed and reportedly resisted arrest. His body was turned over to his family for burial. At year's end there was no publicly available information regarding a police investigation.

The Papuan separatist organization, Organisasi Papua Merdeka (OPM), was also implicated in a number of killings during the year. On March 15, OPM members killed a soldier in Puncak Jaya District; the same group was also accused of killing two civilians. On April 15, OPM members killed a police officer in Puncak Jaya.

In addition to killings by security forces and OPM, there were a number of violent incidents, including some killings by unknown parties in Papua and West Papua. Some of the incidents occurred in the vicinity of a giant gold and copper mine.

Other notable killings by police or unknown parties during the year occurred in Aceh Province. According to nongovernmental organizations (NGOs), on February 2, the Pidie police allegedly killed former Aceh Independence Movement (GAM) combatant Fauzi Bin Syarifuddin. On February 3-4, two members of the Aceh Transition Committee (the successor organization to GAM) were shot and killed in separate incidents. On July 9, police in Krueng Raya allegedly tortured and killed Susanto, an alleged thief, while in custody. There were a number of nonlethal inci-

dents in the preelection period in Aceh as well. Police arrested 37 individuals in connection with violent acts leading up to the elections. At year's end trials of persons accused of some of these violent acts were underway in courts in North Sumatra and Jakarta.

During the year the Ambon Military Court convicted and sentenced 87 TNI personnel to prison for their involvement in the February 2008 attack on Masohi Police Station in Masohi City, Central Maluku. Prison sentences ranged from five to 12 months.

In December 2008 the Bojonegoro District Court convicted and sentenced the former head of forestry management unit in Bojonegoro District, Supriyanto, to three years in prison for the April 2008 killing of two farmers.

In December 2008 the South Jakarta District Court acquitted retired army general Muchdi Purwoprandjono on charges of planning the 2004 murder of human rights activist Munir Said Thalib. On July 10, the Supreme Court upheld the acquittal and remanded the case to the district court. The Attorney General's Office (AGO) said that it intended to file a motion requesting the Supreme Court to "review" the ruling. Under the law, the AGO must present new evidence or identify judicial inconsistencies in the original ruling for the review to be granted.

On January 1, an appeals court overturned a lower court acquittal of Rohainal Aini as an accomplice in Munir's murder and sentenced her to one year in prison.

b. Disappearance.—The government reported little progress in accounting for persons who disappeared in previous years or in prosecuting those responsible for such disappearances. The criminal code does not specifically criminalize disappearance.

In April 2008 the National Human Rights Commission (Komnas HAM) resubmitted its 2006 report on the 1998 abductions of prodemocracy activists to the AGO. Despite refusals from military personnel to cooperate in the investigation, Komnas HAM concluded that all victims still missing were dead and identified suspects for an official investigation without publicly releasing their names. The AGO took no action, stating that it could not prosecute unless the House of Representatives (DPR) declared these crimes gross human rights violations and recommended the creation of an ad hoc human rights court. On September 28, the DPR approved the formation of an ad hoc court to pursue investigations and possible prosecutions of the disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution states that every person shall have the right to be free from torture, inhuman, and degrading treatment. The law criminalizes the use of violence or force by officials to elicit a confession, punishable by up to four years in prison, but the criminal code does not specifically criminalize torture. In previous years law enforcement officials widely ignored, and were rarely tried, under this statute. The government made some efforts to hold members of the security forces responsible for acts of torture. In 2007 the UN special rapporteur on torture reported evidence of torture in many police detention facilities in Java. The special rapporteur reported that torture was common in certain jails and used to obtain confessions, punish suspects, and seek information that incriminated others in criminal activity. Torture typically occurred soon after detention. There were reports that detainees were beaten with fists, sticks, cables, iron bars, and hammers. Some detainees reportedly were shot in the legs at close range, subjected to electric shock, burned, or had heavy implements placed on their feet.

On October 24, approximately 12 Jakarta police officers detained and allegedly beat Riko, a transgender person, as a suspect in a burglary. At year's end an internal police investigation continued.

On November 11, Depok police officers raided a house and arrested several individuals for allegedly gambling. During the raid officers shot and killed Subagyo when he attempted to flee. On November 14, an internal police investigation found that 10 officers used excessive force during the raid and sentenced them to between two and three weeks in prison and transferred them to other posts.

On December 5, four Depok police officers detained J.J. Rizal for possible drug use. Rizal was abused by the officers and suffered a cut lip, two contusions on his head, a bruised jaw, and ringing in the ears. At year's end an internal investigation found the officers used excessive force during the arrest and sentenced them to 14 to 21 days' detention and demotion.

Komnas HAM said during the year there were 180 registered complaints of human rights violations against the National Police (INP). The nongovernmental organization (NGO) Jakarta Legal Aid Institute (LBH Jakarta) reported receiving 1,061 complaints of violations of civil and political rights against the INP.

A January/February 2008 survey by LBH Jakarta of 412 respondents in various detention places found that acts of torture and other ill-treatment were common. Of

the respondents who were interrogated at police stations, 367 alleged abuse during the arrest and interrogation process.

On April 6, police clashed with several thousand proindependence supporters in Nabire, Papua, and shot and injured nine persons. Police also arrested and charged Monika Zonggonau for treason after she allegedly displayed an outlawed separatist symbol. Monika suffered head injuries when police allegedly beat her with a rifle butt during her arrest and detention.

On April 14, police officers from the Tegal and Slawi police stations in Central Java arrested and allegedly tortured Carmadi, a local resident. Two days later Carmadi died as a result of his injuries. According to NGOs, the police fabricated an autopsy report clearing them of Carmadi's death. At year's end there was no information about an investigation of the Tegal and Slawi police.

On April 29, police in Cirebon, West Java, arrested Zainal Muhammad Latif for alleged drug trafficking. While he was in custody, 10 police officers allegedly blindfolded, gagged, and beat Zainal.

On July 23, police officers from the Wamena airport security unit arrested and allegedly tortured Kiten Tabuni. Tabuni was hospitalized for his injuries. By year's end no known investigation of the police had been carried out.

In May 2008 Masu'udi, the chief warrant officer of Malang Military subdistrict command, tortured Mujib, a local civilian. Mujib subsequently died from his injuries. Masu'udi was sentenced to 10 months in prison.

According to the most recent statistics available, 36 persons were publicly caned in Aceh under the local Shari'a (Islamic law) for gambling. There were no reported cases of caning for alcohol consumption or being alone with persons of the opposite sex.

On February 3, a crowd of approximately 2,000 protesters demonstrated in front of the North Sumatra Provincial Parliament, and some forced their way into the building. They manhandled the parliament's speaker, Abdul Aziz Angkat, and forced him to confront the crowd. Angkat fainted and later that afternoon was pronounced dead. During the year 69 persons were tried in connection with the incident and were sentenced to between one and 10 years in prison.

On November 6, unknown assailants in Aceh shot and wounded a German Red Cross official in a clearly marked Red Cross vehicle. No arrests had been made by year's end.

There were instances in which police failed to respond to mob or vigilante violence. Mobs carried out vigilante justice, but reliable statistics on such actions were not available. Thefts or perceived thefts triggered many such incidents.

Prison and Detention Center Conditions.—Conditions at the country's 642 prisons and detention centers were harsh. Overcrowding was widespread. In Jakarta, occupancy frequently was two or three times more than recommended capacity. According to the government, the Pondok Bambu Detention Facility in Jakarta, designed for 500 prisoners, held 1,172 prisoners. The facility has two types of cells, small and large. A small cell is approximately nine square yards and designed for one to two prisoners. According to NGOs, three to five prisoners were assigned to small cells. Authorities routinely assigned 20 to 30 prisoners to large cells designed to hold a maximum of 10 prisoners.

According to The International Centre for Prison Studies, prison capacity was designed for 76,550 inmates; however, there were more than 140,000 prisoners, including approximately 2,500 juveniles and 11,000 women. There are six women-only prisons in the country, including five in Java and one in North Sumatra.

Guards regularly extorted money from and mistreated inmates. There were widespread reports that the government did not supply sufficient food to inmates, and family members often brought food to supplement their relatives' diets. Family members reported that prison officials often sought bribes to allow relatives to visit inmates. Officials held unruly detainees in solitary confinement for up to six days on a rice-and-water diet. According to government figures, 778 prisoners died during the year, compared with 750 in 2008. Prison officials reported that 9,000 rupiah/day (\$0.90/day) is allocated for a prisoner's food and health care.

By law children convicted of serious crimes should serve their sentences in juvenile prisons. However, according to a 2007 statement by the UN special rapporteur on torture, children were incarcerated with adults in both pretrial detention centers and in prisons. By law prisons held those convicted by courts, while detention centers held those awaiting trial; however, in practice pretrial detainees at times were held with convicted prisoners.

Since March the International Committee of the Red Cross (ICRC) was denied access to monitor prison conditions and treatment of prisoners. In addition the government requested the ICRC to close field offices in Aceh and Papua provinces. The government stated ICRC services were no longer required within the country.

On November 26, detained Papuan activist Buchtar Tabuni was beaten at Abepura Class II Penitentiary sparking riots involving protesters both inside and outside the prison the next day. The authorities implicated and detained three TNI personnel and a police officer for allegedly beating Buchtar.

d. Arbitrary Arrest or Detention.—The law contains provisions that protect against arbitrary arrest and detention but lacks adequate enforcement mechanisms, and some authorities routinely violated these provisions.

Role of the Police and Security Apparatus.—The president appoints the national police chief, subject to confirmation by the DPR. The police chief reports to the president but is not a full member of the cabinet. The INP has 327,526 personnel deployed in 31 regional commands in 33 provinces. The police maintain a centralized hierarchy; local police units formally report to the national headquarters. The military is responsible for external defense but also has a residual obligation to support the police with its domestic security responsibilities. In Aceh the Shari'a police, a provincial body, is responsible for enforcing Shari'a.

The Internal Affairs Division and the National Police Commission within the INP investigate complaints against individual police officers. Additionally, Komnas HAM and NGOs conducted external investigations, with the knowledge and cooperation of the police. During the year, 6,546 officers were charged with criminal and disciplinary infractions.

On January 30, the Ministry of Law and Human Rights approved the Use of Force Police Action Policy, which among other things requires that whenever force is used or whenever a citizen or police officer is injured as a result of use of force a Use of Force Resistance Control Form must be completed.

During the year Komnas HAM received 1,302 complaints of human rights abuses by the police. Of these, 891 were related to torture and abuse allegedly committed during interrogations.

On June 25, the INP implemented regulations that standardized human rights regulations in the normal course of police duties. However, impunity and corruption remained problems in some provinces. Police commonly extracted bribes ranging from minor payoffs in traffic cases to large bribes in criminal investigations.

Arrest Procedures and Treatment While in Detention.—The law provides prisoners with the right to notify their families promptly and specifies that warrants must be produced during an arrest. Exceptions are allowed if, for example, a suspect is caught in the act of committing a crime. The law allows investigators to issue warrants; however, at times authorities made arrests without warrants. A defendant may challenge the legality of his arrest and detention in a pretrial hearing and may sue for compensation if wrongfully detained; however, defendants rarely won pretrial hearings and almost never received compensation after being released without charge. Military and civilian courts rarely accepted appeals based on claims of improper arrest and detention.

The law limits periods of pretrial detention. Police are permitted an initial 20-day detention, which can be extended to 60 days by the prosecutors while the investigation is being completed; prosecutors may detain a suspect for a further 30 days during the prosecution phase and may seek a 20-day extension from the courts. The district and high courts may detain a defendant up to 90 days during trial or appeal, while the Supreme Court may detain a defendant 110 days while considering an appeal. Additionally, the court may extend detention periods up to another 60 days at each level if a defendant faces a possible prison sentence of nine years or longer or if the individual is certified to be mentally disturbed. During the year authorities generally respected these limits in practice. The antiterrorism law allows investigators to detain any person who, based on adequate preliminary evidence, is strongly suspected of committing or planning to commit any act of terrorism for up to four months before charges must be filed.

During his November 2007 visit, the UN special rapporteur on torture found that in many instances the authorities did not grant bail, frequently prevented access to defense counsel during investigations, and limited or prevented access to legal assistance from voluntary legal defense organizations. Court officials sometimes accepted bribes in exchange for granting bail.

By law suspects or defendants have the right to the legal counsel of their choice at every stage of an investigation. Court officials will provide free legal counsel to persons charged with offenses that carry a death penalty or imprisonment of 15 years or more, or to destitute defendants facing charges that carry a penalty of five years or more. Suspects have the right to bail and to be notified of the charges against them.

e. Denial of Fair Public Trial.—The law provides for judicial independence; however, in practice the judiciary remained susceptible to influence from outside parties,

including business interests, politicians, and the security forces. Low salaries continued to encourage acceptance of bribes, and judges were subject to pressure from government authorities, which appeared to influence the outcome of cases.

District, military, religious, and administrative courts fall under the jurisdiction and purview of the Supreme Court. The Supreme Court normally considers only the lower courts' application of the law. Another avenue for appeal, judicial review, allows the Supreme Court to revisit cases that have already been decided (including by the Supreme Court itself), provided there is new evidence that was not available during earlier trials. Parallel to the Supreme Court is the Constitutional Court, which is empowered to review the constitutionality of laws, settle disputes between state institutions, dissolve political parties, resolve certain electoral disputes, and decide allegations of treason or corruption against the president or vice president. The Constitutional Court demonstrated significant independence and continued to overturn legislation that it found unconstitutional. During the year the Constitutional Court found provisions of the election law to be unconstitutional.

Widespread corruption throughout the legal system continued. Bribes and extortion influenced prosecution, conviction, and sentencing in civil and criminal cases. In 2008 the National Ombudsman Commission reported receiving 166 complaints of judicial corruption involving judges, clerks, and lawyers. Key individuals in the justice system were accused of accepting bribes and of turning a blind eye to other government offices suspected of corruption. Legal aid organizations reported that cases often moved very slowly unless a bribe was paid. As a result of an independent fact-finding team's investigation, President Yudhoyono appointed a Task Force to Eradicate Judicial Mafias tasked with investigating the network of case brokers and influence peddlers who act as intermediaries in judicial cases.

During the year hundreds of low-level and sometimes mid-level soldiers were tried in military courts, including for offenses that involved civilians or occurred when soldiers were not on duty. If a soldier was suspected of committing a crime, military police investigated and then passed their findings to military prosecutors, who decided whether to prepare a case. Under the law military prosecutors are accountable to the Supreme Court; however, military prosecutors were responsible to the TNI for the application of laws.

A three-person panel of military judges heard trials, while the High Military Court, the Primary Military Court, and the Supreme Court heard appeals. Some civilians criticized the short length of prison sentences imposed by military courts.

NGO sources said that some military court proceedings all the way to the Supreme Court were not public; however, the trials of the marines charged in the 2007 Alastlogo killings were public.

Four district courts located in Surabaya, Makassar, Jakarta, and Medan are authorized to adjudicate cases of gross human rights violations. At year's end only the Makassar and Jakarta courts had adjudicated such cases. The law provides for each court to have five members, including three noncareer human rights judges, who are appointed to five-year terms. Verdicts can be appealed to the standing appellate court and the Supreme Court. The law provides for internationally recognized definitions of genocide, crimes against humanity, and command responsibility, but it does not include war crimes as a gross violation of human rights.

Under the Shari'a court system in Aceh, 19 district religious courts and one court of appeals heard cases. The courts heard only cases involving Muslims and used decrees formulated by the local government rather than the penal code. Critics argued that Shari'a regulations were procedurally ambiguous. For example, defendants had a right to legal aid, but this right was inconsistently implemented. Although Shari'a cases were supposed to be tried in closed hearings, during the year there were numerous problems with trial proceedings going forward in open court.

Trial Procedures.—The law presumes that defendants are innocent until proven guilty. Defendants have the right to confront witnesses and call witnesses in their defense. An exception is allowed in cases in which distance or expense is deemed excessive for transporting witnesses to court; in such cases sworn affidavits may be introduced. However, the courts allowed forced confessions and limited the presentation of defense evidence. Defendants have the right to avoid self-incrimination. In each of the country's 755 courts, a panel of judges conducts trials by posing questions, hearing evidence, deciding on guilt or innocence, and imposing punishment. Both the defense and prosecution can appeal.

The law gives defendants the right to an attorney from the time of arrest and at every stage of examination and requires that defendants in cases involving capital punishment or a prison sentence of 15 years or more be represented by counsel. In cases involving potential sentences of five years or more, the law requires that an attorney be appointed if the defendant is indigent and requests counsel. In theory indigent defendants may obtain private legal assistance, and NGO lawyer associa-

tions provided free legal representation to indigent defendants. The law extends these rights to all citizens. In some cases procedural protections, including those against forced confessions, were inadequate to ensure a fair trial. With the noted exceptions of Shari'a and military trials, trials are public.

Political Prisoners and Detainees.—During the year at least seven Papuan independence activists, including a 16-year-old boy, were in detention for raising a banned separatist flag. Filep Karma and Yusak Pakage remained in detention serving 15 and 10 years, respectively, for their role in such a flag raising.

On November 12, the Manokwari District Court convicted Roni Ruben Iba, Isak Iba, and Piter Iba for the January 1 raising of the banned separatist flag outside a government office.

During the year individuals in Maluku, including Johan Teterisa, serving a life sentence, were imprisoned for raising a banned separatist flag. They were charged with incitement of hatred and rebellion. During the year Republik Maluku Selatan (RMS) separatists were sentenced for flag raising (see section 2.a.).

According to the international NGO Human Rights Watch, there were more than 170 persons in prisons throughout the country for flag raising.

In 2007 the authorities arrested Papuan human rights activist Iwanggin Sabar Olif on suspicion of incitement of hatred and defamation. On January 29, the Jayapura District Court acquitted Olif of all charges.

Civil Judicial Procedures and Remedies.—The civil court system can be used to seek damages for victims of human rights violations; however, corruption and political influence limited victims' access to this remedy.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law requires judicial warrants for searches except for cases involving subversion, economic crimes, and corruption. The law also provides for searches without warrants when circumstances are "urgent and compelling."

On November 23, the minister of communications and information said that he wanted to regulate wiretapping by requiring that law enforcement agencies obtain prior approval from the courts and his ministry. Some observers criticized the statement as an attempt to weaken the Anticorruption Commission (KPK) (see section 4). At year's end discussions were underway between the administration and the DPR concerning establishment of a central consulting agency for all law enforcement agencies with authority over wiretapping.

Security officials occasionally broke into homes and offices. Authorities occasionally conducted warrantless surveillance on individuals and their residences and monitored telephone calls. Corrupt officials sometimes subjected migrants returning from abroad, particularly women, to arbitrary strip searches, theft, and extortion.

In some parts of the country, particularly in Kalimantan and Papua, residents believed that government-sponsored transmigration programs, which move households from more densely populated areas to less populated regions, interfered with their traditional ways of life, land usage, and economic opportunities. Although the number of new persons in transmigration was significantly less than in previous years, the government continued to support financially approximately 6,756 households moved in 2008 from overpopulated areas to isolated and less-developed areas in 21 provinces.

The government used its authority, and at times intimidation, to expropriate land for development projects, often without fair compensation. In other cases state-owned companies were accused of endangering resources upon which citizens' livelihood depended. A presidential decree on land acquisition for public use allows the government to acquire land for private development projects even if landowners have not agreed on the amount of compensation. A number of NGOs argued that the decree served the interests of wealthy developers at the expense of the poor.

During the year security forces allegedly used excessive force while evicting individuals involved in land disputes. During the year evictions of squatters living on government land and of street vendors continued to decrease. The NGO Poor People's Alliance reported that approximately 8,050 persons were evicted from their homes or informal businesses during the year. According to city officials, the Jakarta administration carried out eight evictions during the year, forcing 7,814 persons out of their homes.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution and the law provide for freedom of speech and freedom of the press; however, the government at times restricted these rights in practice. Politicians and powerful businessmen filed criminal or civil complaints against journalists whose articles they found insulting or offensive; some journalists faced threats of violence. Nonetheless, a vigorous, independent

media operated in the country and expressed a wide variety of views generally without restriction. In 2007 the Constitutional Court annulled or ruled unconstitutional various provisions of the criminal code which provided special protections to the president, the vice president, and the government.

During the year there was a trend of persons accused of corruption and those involved in civil disputes filing criminal defamation complaints with police in an attempt to silence their critics.

On July 15, Kho Seng Seng and Winny Kwee were convicted of defamation and given six-month suspended sentences and one-year probation each. Both had submitted letters to editors of different newspapers complaining about a property developer. At year's end both cases were pending appeal.

On August 3, the Yogyakarta police named anticorruption activist Muhammad Dadang Iskandar a suspect for alleged defamation against members of the local legislature, Slamet and Arif Setiadi.

On September 8, the Jakarta police identified human rights activist Usman Hamid as a suspect for alleged defamation and slander against former State Intelligence Agency deputy chief Muchdi Purwopranjono.

On October 12, Illian Deta Arta Sari and Emerson Yuntho, staff members of the NGO Indonesia Corruption Watch, were identified as suspects in a criminal defamation case for campaigning against the criminal investigation of the deputy chairmen of the KPK (see section 4).

On December 24, the Jakarta police identified actress Luna Maya as a suspect for alleged defamation against journalists based on comments she had posted on her Twitter account.

Based on recent statistics the authorities arrested at least 30 persons for raising separatist flags in Papua. Although the Papua Special Autonomy Law permits flying a flag symbolizing Papua's cultural identity, a government regulation prohibits the display of the Morning Star flag in Papua, the RMS flag in Maluku, and the Crescent Moon flag in Aceh.

On March 23, Bruce Nahumury was sentenced to four years in prison for his role in the display of the banned RMS flag during a dance welcoming President Yudhoyono in 2007.

On April 6, police arrested 15 members of West Papua National Committee (KNPB) in Nabire, Papua, for a demonstration and charged them with treason. On September 14, a judge acquitted the members of the KNPB of all charges.

On April 6, Musa Tabuni, Serafin Diaz, and Yance Mote were arrested and charged with subversion and separatism following a KNPB Customary Council meeting in Jayapura. At year's end they were in detention awaiting trial.

The government continued to restrict foreign journalists, NGOs, and government officials from traveling to the provinces of Papua and West Papua by requiring them to request permission to travel through the Foreign Ministry or an Indonesian embassy. The government approved some requests and denied others. Some journalists traveled to Papua without permission. There were no reports of restrictions on journalists traveling to previous areas of conflict in Aceh, Maluku, North Maluku, and Sulawesi. On November 15, two foreign journalists attempting to cover a demonstration by Greenpeace activists were detained by police in Riau Province and deported for lacking accreditation. The Immigration Police explained that the journalists were required to obtain news coverage permits from the Ministry of Communication and Information.

Although journalists faced violence and intimidation, the Alliance of Independence Journalists reported a decrease in violence against journalists, with 38 cases during the 12-month period beginning August 2008, compared with 60 cases in the previous 12 months. There were 22 cases of physical violence, including the murder of a Radar Bali journalist, Anak Agung Prabangsa, in February. Nine cases were criminal and civil lawsuits. As of August, 14 cases of defamation were pending in court.

On May 13, a bank security guard assaulted Carlos Pardede, a television journalist on his way to conduct an interview, resulting in serious injury. On August 8, a court convicted and sentenced the security guard to four months in prison.

Defamation and libel suits made investigative journalism potentially expensive. On April 16, the Supreme Court overturned its 2007 decision awarding former president Suharto one trillion rupiah (approximately \$100 million) in a libel suit against Time.

On July 15, the South Jakarta District Court rejected a libel suit filed by Islamic Troop (a militant Islamic protest group) commander, Munarman, against local newspaper Koran Tempo.

During the year, the government took no legal action against any persons responsible for crimes committed against journalists in 2008.

Internet Freedom.—The Internet had considerable impact in urban areas, and social networking media, for example, was used to rally support for two government anticorruption officials (see section 4) as well as for a woman convicted of defamation. According to International Telecommunication Union statistics for 2008, approximately 8 percent of the country's inhabitants used the Internet.

In March 2008, the DPR passed the Information and Electronic Transaction (ITE) Law. The law, intended to combat online crime, pornography, gambling, blackmail, lies, threats, and racism, prohibits citizens from distributing in electronic format any information that is defamatory and punishes transgressors with a maximum of six years in prison or a fine of one billion rupiah (\$100,000) or both. The Information and Communication Ministry Web site offered free software to block Web sites with adult content.

On May 13, Prita Mulyasari was arrested and charged with defamation under the ITE law. She sent a personal e-mail complaining about poor services at a local hospital. The e-mail was widely circulated through Internet mailing lists and chat rooms, and the hospital filed a complaint with the police. On June 25, a district court threw out the defamation charge in a preliminary hearing, but the Banten High Court overturned the ruling and ordered a retrial. Mulyasari was found guilty in the retrial and ordered to pay 204 million rupiah (approximately \$21,600). She received widespread financial support to pay her fines and legal expenses, including from senior political figures. On December 29, the Tangerang District Court ruled that her e-mail did not constitute defamation and acquitted her on all charges.

Internet cafes are required to provide the identities of Internet users to a government agency on a monthly basis.

Academic Freedom and Cultural Events.—Following the arrest of two State Islamic University students for involvement in terrorist networks and hiding two suspected terrorists, the university's rector announced a decision to change the curriculum to improve students understanding of Islam.

In October 2008, the DPR passed an antipornography bill. Critics considered its definition of pornography too broad and feared that it could be used to justify attacks on artistic, religious, and cultural freedom. The bill includes provisions that allow citizens to "supervise" adherence to the law. During the year one group of traditional "jaipong" dancers in West Java were told to cover up their costumes and cut down on their gyrations so as not to violate the law. On December 31, Bandung police arrested four female nightclub performers. In February the Constitutional Court began consideration of a complaint that the law violates freedom of religion and expression tenets of the constitution.

During the year the government-supervised Film Censorship Institute (LSF) continued to censor domestic and imported movies for content deemed pornographic or religiously offensive. On December 1, the LSF banned the Australian movie *Balibo*. The movie depicts the killing of five journalists in East Timor by Indonesian soldiers. The TNI has consistently maintained that the journalists were killed in a cross fire with East Timor guerrilla fighters.

The AGO has the authority to monitor written materials. During the year, the AGO banned five books: *The September 30 Movement and Soeharto Coup d'état* by Jhon Roosa; *Six Ways to Reach God* by Darmawan M.M.; *Resolving the Mystery of Religious Diversity* by Syahrudin Ahmad; *The Voice of Churches for Suppressed People, Blood and God's Tears in West Papua* by Cocrateze Sofyan Yoman; and *Lekra Never Burns* by Roma Yuliantri and Muhidin Dahlan.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The law provides for freedom of assembly, and the government generally respected this right. The law generally does not require permits for social, cultural, or religious gatherings; however, any gathering of five or more persons related to political, labor, or public policy requires police notification, and demonstrations require a permit. In general these permits were granted routinely.

During the year police arrested participants in peaceful demonstrations that included the display of illegal separatist symbols (see section 2.a.).

In general the INP exercised discipline and handled demonstrations responsibly. However, in Papua and West Papua, demonstrators complained of police overreaction and undue use of force; police said that demonstrators initiated the violence by throwing rocks and employing traditional weapons such as arrows and spears. Examples include an April 5 rally in Nabire calling for a boycott of the national elections during which seven civilians and five police were injured; on April 6, in Nabire police shot nine persons, and one police officer was shot with an arrow. At year's end there were a number of peaceful, anticorruption rallies throughout the country.

Freedom of Association.—The law provides for freedom of association, and the government generally respected it in practice. The People's Consultative Assembly banned the Indonesia Communist Party (PKI) in 1966. In previous years persons accused of being affiliated with the PKI were barred from the civil service and given special numbers on their national identity cards.

Members of Ahmaddiya have not held any national conferences since April 2008, when the Bali police refused to issue them a permit (see section 2.c.).

c. Freedom of Religion.—The constitution provides “all persons the right to worship according to his or her own religion or belief” and states that “the nation is based upon belief in one supreme God.” The government generally respected the former provision. Six faiths—Islam, Protestantism, Catholicism, Hinduism, Buddhism, and Confucianism—received official recognition in the form of representation at the Ministry of Religious Affairs. Unrecognized groups may register with the Ministry of Culture and Tourism as social organizations. By law they have the right to establish house(s) of worship, obtain identity cards, and register marriages and births; in practice they faced administrative difficulties in doing so. In June 2008 the government issued a decree prohibiting the Ahmaddiya from proselytizing and from practices deemed “deviant” from mainstream Islam.

On September 29, the police in Garut, West Java, took members of the Daifillah sect into custody after local residents accused the group of blasphemy. At year's end the investigation continued, and the police had not filed formal charges against Daifillah members.

On September 29, the Bandung State Administrative Court overturned the Depok mayor's decision to revoke the Huria Batak Kristen Protestan church building permit. The mayor revoked the permit following complaints by the local Muslim community. The renovations continued at year's end.

Persons whose religion was not one of the six officially recognized faiths had difficulty obtaining an identity card, which was necessary to register marriages, births, and divorces. Men and women of different religions experienced difficulties in marrying and registering marriages. The government refused to register a marriage unless a religious marriage ceremony had taken place. However, very few religious officials were willing to take part in weddings involving couples of different faiths. For this reason, some brides and grooms converted to their partner's religion. Others resorted to traveling overseas to wed.

The civil registration system continued to discriminate against members of minority religions. Civil registry officials refused to register the marriages or births of children of members of the Baha'i faith and others because they did not belong to one of the six officially recognized faiths. According to the Hindu association Parisadha Hindu Dharma Indonesia, despite official recognition of their religion, Hindus, particularly in North Lampung, Southeast Sulawesi, Kalimantan, and some areas in East Java, sometimes had to travel greater distances to register marriages or births because local officials would not perform the registration.

During the Muslim fasting month of Ramadan, many local governments ordered either the closure or limited operating hours for various types of “entertainment” establishments, particularly bars and nightclubs not located in five-star hotels. Government and mainstream Islamic leaders called on fringe groups not to carry out vigilante closings of establishments that violated these decrees, and these groups complied.

On August 21, the INP announced that police officers would monitor sermons delivered in mosques.

Under the terms of the 2005 Aceh peace agreement, Aceh is the only province in Indonesia formally permitted to implement aspects of Shari'a. The provincial government enacted “qanun,” regulations governing relations between members of the opposite sex, alcohol consumption, and gambling. On September 14, the outgoing provincial parliament enacted qanun, which prescribed stoning to death for adultery and steep prison terms and public caning for homosexual acts, rape, and pedophilia. Critics both inside and outside Aceh criticized the new qanun as unconstitutional, and more secularly minded parties dominated the incoming provincial parliament.

In October the West Aceh regent announced a local regulation barring Muslim women from wearing pants. Although the law was not to go into effect until 2010, local Islamic police and other officials began enforcing it by stopping women wearing pants while on motorcycles and issuing warnings. Officials refused to serve women wearing pants at government offices, including medical facilities. Non-Muslim women reported that they also were refused medical and other services.

Many local governments maintained laws with elements of Shari'a that abrogated the rights of women and religious minorities. In many cases these laws require Muslim women to wear headscarves in public; mandate elected Muslim officials, students, civil servants, and individuals seeking marriage licenses to be able to read

the Koran in Arabic; and prohibit Muslims from drinking alcohol and gambling. Some of these laws were attempts to deal with local social problems, and in many cases the laws were not enforced. Although the central government holds authority over religious matters, it failed to overturn any local laws that restricted rights guaranteed in the constitution.

Societal Abuses and Discrimination.—On November 9, the Arastamar Evangelical School of Theology, also known as Setia College, reached a settlement with the Jakarta governor's office regarding a new campus. The school was attacked in July 2008 by residents of Kampung Pulo District, West Jakarta. At year's end the students continued to live and take classes in three different locations in the city, often in poor conditions.

On December 17, the first day of the Islamic New Year, a mob attacked and damaged Saint Albert's Church in Bekasi Regency.

The Jewish population was approximately 15,000. On January 7, an estimated 100 activists from a Muslim organization in East Java held a protest in front of a Surabaya synagogue to demonstrate support for Palestinians. Some protesters reportedly carried signs with anti-Semitic references. Police prevented the protesters from entering the synagogue. There were no injuries or damage. In the context of the continuing Israel/Palestine conflict, articles in the media and public statements by community leaders often criticized Israeli policy using anti-Semitic rhetoric demeaning to Jewish persons and Judaism. Although the government promoted tolerance education in primary schools, there was no specific curriculum devoted exclusively to anti-Semitism education.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution allows the government to prevent persons from entering or leaving the country. The Law on Overcoming Dangerous Situations gives military forces broad powers in a declared state of emergency, including the power to limit land, air, and sea traffic; however, the government did not use these powers. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Citizens enjoyed freedom of movement within the country and, with few exceptions, were able to travel outside the country. During the year the government continued to restrict freedom of movement for foreigners to Papua through a system of "travel letters," but enforcement was inconsistent.

The government prevented at least 698 persons from leaving and 1,266 from entering the country in 2007. The immigration office prevented these departures at the request of the police, the AGO, the KPK, and the Department of Finance. Some of those barred from leaving were delinquent taxpayers, convicted or indicted persons, and persons otherwise involved in legal disputes.

During the year approximately 300 Papuans who had been sheltering in Papua New Guinea for many years voluntarily returned to West Papua Province.

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

Internally Displaced Persons (IDPs).—The Internal Displacement Monitoring Center reported that there were between 70,000 and 120,000 IDPs in the country. According to the Aceh Recovery Body, only 1,500 IDPs remained in Aceh. According to International Organization for Migration (IOM), the number of IDPs in West Sumatra as a result of the October 30 earthquake was 4,000, spread throughout the province. A mud flow in 2008 in Porong, East Java, left 2,500 persons in camps. Approximately 2,000 IDPs who had been staying in the Porong Market Camp left the camp after receiving compensation payment. On September 18, the East Java governor officially handed over new houses to them. Due to preelection tensions in Aceh, tens of thousands of Javanese transmigrants fled and were displaced to neighboring North Sumatra Province. In all incidents the government allowed IDP access to domestic and international humanitarian organizations and permitted them to accept assistance provided by these groups. The government did not attack or target IDPs or forcibly return or resettle IDPs under dangerous conditions.

Protection of Refugees.—The country is not a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and the national law does not provide for the granting of asylum or refugee status, and the government has not established a system for providing protection to refugees. In practice the government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. There

were varying estimates of the number of refugees and asylum seekers in the country. Through the end of September, the UNHCR recognized 529 refugees and 1,593 asylum seekers. The IOM estimated 1,014 refugees or asylum seekers. The government reported 1,642 refugees or asylum seekers. Some were applicants, and others were dependents. Most were from Sri Lanka, Iraq, Afghanistan, or Burma.

The government prohibited refugees from working and from access to public elementary education.

The above figures did not include 10,436 former refugees from East Timor who resided in East Nusa Tenggara (NTT) at the end of the year, according to the Center for Internally Displaced Peoples Service in West Timor. According to NGOs, there were approximately 20,000 ex-East Timorese refugees resettled in NTT, and 5,000 were still in temporary shelters.

In January and February, nearly 400 Rohingya and Bangladeshi landed in the country. The government initially threatened to deport them as economic migrants and, until April, blocked UNHCR officials' access to the migrants. At year's end the migrants were confined in squalid makeshift camps in Aceh Province and were not allowed freedom of movement.

The 119 Bangladeshi migrants do not qualify for UNHCR protection. The government was working with the Embassy of Bangladesh to repatriate them.

On May 14, 55 Sri Lankan migrants drifted ashore in western Aceh Province. The government placed restrictions on their free movement.

During the year tensions at one overcrowded camp sheltering Rohingya and Bangladeshi migrants led to mistreatment of the migrants by humanitarian workers. Reportedly the migrants had been well treated since coming onshore in February, but on March 19, Indonesian Red Cross (PMI) staff beat three of the migrants. On July 12, 21 migrants tried to escape the camp but were recaptured by police. Back at camp, the PMI staff beat two of the would-be escapees. IOM staffers intervened to stop the beatings. That night, after the IOM staffers had left, the PMI staff beat all 21 of the would-be escapees, some severely. On June 15, after two migrants successfully escaped, PMI staff reportedly went from tent to tent and threw hot water on the men and assaulted most of the persons in each tent.

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

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

The constitution provides for national elections every five years. DPR members automatically are members of the People's Consultative Assembly, a fully elected body consisting of the 550 DPR members and 128 members of the House of Regional Representatives (DPD).

Elections and Political Participation.—On July 8, President Yudhoyono was re-elected overwhelmingly in generally free and fair elections.

On April 9, the country conducted its third democratic legislative elections. These were a massively complex affair with voters receiving ballots for the DPR, the DPD, provincial parliaments, and regency and city councils. Thirty-eight national parties competed in the elections, with an additional six parties in Aceh Province only. Irregularities occurred, requiring 245 reruns in 10 provinces. Observers concluded that the vast majority of irregularities involved logistical difficulties (primarily due to faulty voter-list data) rather than malfeasance. Some violence and intimidation also marred the legislative election campaign in Aceh, Papua, and West Papua. In general, however, domestic and foreign observers found the elections free and fair.

Parties were required to win a minimum of 2.5 percent of the national vote to qualify for a seat in the DPR. Nine parties met this threshold and won seats in parliament. There was a delay in final legislative seat allocations, because the Constitutional Court, the Supreme Court, and the National Election Commission had different allocation systems; the Constitutional Court's ruling prevailed. The top three vote getters were secular, nationalist parties, followed by the four largest Islamic-oriented parties. President Yudhoyono's Democrat Party won a plurality of seats, while then vice president Kalla's Golkar Party finished in second place. The major opposition party the Indonesia Democratic Party-Struggle, led by Megawati Sukarnoputri, finished in third place.

All adult citizens, age 17 or older, are eligible to vote except active members of the military and the police, convicts serving a sentence of five years or more, persons suffering from mental disorders, and persons deprived of voting rights by an irrevocable verdict of a court of justice. Married juveniles are legally adults and allowed to vote.

There are no legal restrictions on the role of women in politics. A law on political parties mandated that women make up 30 percent of the founding members of a new political party. An election law, which included a nonbinding clause for parties to select women for at least 30 percent of the candidate slots on their party lists, ensured that parties put forward more women candidates. The Constitutional Court invalidated this clause when it struck down the law and ruled that voters for the first time could directly elect their representatives, regardless of their position on party lists. Nonetheless, the number of women in parliament increased significantly, from 11 percent to 18 percent of the DPR seats in the April 9 elections. During the year women held five of 37 cabinet-level positions. At the provincial level, there was one female governor and one vice governor. Women held disproportionately few leadership positions in local government in some provinces; for example, in Aceh the highest position held by a woman was that of deputy mayor, in the city of Banda Aceh.

In 2007 the Constitutional Court ruled that independent candidates could run for local office and that a political party's nomination was not required. In September 2008 the first gubernatorial election that involved independent candidates was held in South Sumatra. Not all went smoothly with gubernatorial elections. The Constitutional Court ordered a rerun for several districts in the November 2008 East Java gubernatorial election when it found evidence of fraud. Allegations of fraud also plagued the January rerun. Both sets of candidates likely engaged in vote buying, but election officials determined that the level of fraud did not affect the outcome. The new governor was inaugurated in February.

With the exception of Aceh Province, where non-Muslims were effectively blocked from political office by a requirement that all candidates must demonstrate their ability to read the Koran in Arabic, there were no legal restrictions on the role of minorities in politics. There were no official statistics on the ethnic backgrounds of legislators in the DPR. President Yudhoyono's cabinet consisted of a plurality of Javanese, with others being of Sundanese, Bugis, Batak, Acehnese, Papuan, Balinese, and Chinese heritage.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. Despite the arrest and conviction of high profile and high-powered officials, there was a widespread domestic and international perception that corruption was a part of daily life. Both the KPK and the Attorney General's Office under the deputy attorney general for special crimes have jurisdiction over investigation and prosecution of corruption cases. During the year the KPK investigated 67 cases, up from 46 in 2008. As a result of the KPK's prevention and prosecutorial activities, it recovered a total of 142.3 billion rupiah (approximately \$15.5 million) in state assets. The deputy attorney general for special crimes reported investigating more than 1,500 cases and recovering approximately 4.8 trillion rupiah (approximately \$524 million).

Although members of parliament (MPs) were long considered to be untouchable by law enforcement, in 2008 and 2009, nine MPs, in separate cases, were either convicted by or had trials pending before the Anticorruption Court for violating corruption laws. Those convicted received sentences ranging from three to eight years in prison. Six other MPs or former MPs were under KPK investigation.

The KPK came under attack during the year when two deputy commissioners were accused of extortion and abuse of power. A strong public reaction supporting the KPK and the two deputies ensued, especially after a KPK wiretap seemed to reveal a conspiracy to frame them. Under mounting pressure from the public and the media, a senior police official and a deputy attorney general resigned their positions. The AGO later dropped charges against the deputies; however, civil society organizations suggested that this was part of a larger attempt to systematically weaken the powers of the KPK.

On September 29, the parliament passed the Anticorruption Court bill. The Anticorruption Court was established in tandem with the KPK, but in 2006 two alleged corruptors challenged the constitutionality of the court. The Constitutional Court agreed that the court as constituted was unconstitutional and gave the DPR three years to fix the problems. The DPR met the deadline, but the bill curbs the court's independence. The law requires corruption courts be established in all regencies within two years. The head of the Supreme Court decides how many career and ad hoc judges sit on the panel for the corruption courts. Under the new law there is no mandate for transparency in the selection of justices.

In April 2008 the government passed the Freedom of Information Act, which acknowledges the right of citizens to access governmental information and provides mechanisms through which citizens can obtain such information. The law also pro-

vides for sanctions on public bodies if they do not comply. The authorities have not yet promulgated enforcement regulations. The Alliance of Independent Journalists reported no problems for the media in obtaining unclassified public documents from the government.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Domestic human rights organizations operated throughout the country and actively advocated for improvements to the government's human rights performance; however, the government subjected the organizations to monitoring, harassment, and interference.

The government met with local NGOs, responded to their inquiries, and took some actions in response to NGO concerns.

NGOs in Papua continued to report widespread monitoring of their activities by intelligence officials as well as threats and intimidation. Activists reported that intelligence officers took their pictures surreptitiously and sometimes questioned their friends and family members regarding their whereabouts and activities.

The government generally viewed outside investigations or foreign criticism of its human rights record as interference in its internal affairs. The security forces and intelligence agencies tended to regard with suspicion foreign human rights organizations, particularly those operating in conflict areas. Government monitoring of foreigners was apparent in conflict areas. Some domestic human rights organizations expressed concern about the possible negative consequences of contacting foreigners. A number of government agencies and affiliated bodies addressed human rights problems, including the Ministry of Law and Human Rights, the Ministry of Foreign Affairs, the Ministry of Women's Empowerment, the National Commission on Violence Against Women (Komnas Perempuan), and Komnas HAM. In recent years Komnas HAM's efforts to expose human rights violations and bring perpetrators to account were undermined by a number of court decisions regarding its jurisdiction or authority. In 2008 the AGO rejected Komnas HAM's recommendations to file charges in four incidents including Wamena-Wasior, Trisakti, Semanggi I and II, and forced disappearances.

On September 28, the DPR approved the formation of an ad hoc tribunal that could investigate and prosecute the disappearance of human rights activists. Twenty-four human rights activists and students disappeared between 1997 and 1998. Ten later resurfaced, accusing the military of kidnapping and torture. Thirteen activists remained missing, and one body was found. However, parliament failed to approve action regarding other cases of human rights violations that occurred before 2000.

Although the 2006 Law on the Government of Aceh states that a human rights court would be established in Aceh, it was not established by year's end.

In July 2008 the Commission on Truth and Friendship (CTF), established by the governments of Indonesia and Timor-Leste in 2005 to address human rights violations committed in Timor-Leste in 1999, delivered its final report to the two governments' presidents. The report recognized that gross violations of human rights occurred prior to and immediately after the popular consultation in East Timor in 1999. The report's recommendations for Indonesia included a human rights training program with emphasis that the military remain neutral in political controversies and elections and enhanced authority for institutions charged with investigation and prosecutions for human rights violations. The government disseminated the CTF recommendations within the government, and a variety of ministries began carrying out the recommendations.

The Indonesian judicial processes either acquitted or eventually overturned all convictions of Indonesian defendants—two Indonesians of Timorese descent served some jail time for crimes in 1999—despite overwhelming evidence that Indonesian civilians and security forces committed gross human rights violations. An estimated 300 Indonesians indicted by Timor-Leste remained in Indonesia.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution does not explicitly prohibit discrimination based on gender, race, disability, language, or social status. It provides for equal rights for all citizens, both native and naturalized. However, in practice the government failed to defend these rights adequately.

Women.—Reliable nationwide statistics on the incidence of rape continued to be unavailable. The legal definition of rape is narrow and excludes marital rape. Light sentences continued to be a problem. Although rape is punishable by four to 14 years in prison, and the government imprisoned perpetrators for rape and attempted rape, most convicted rapists were sentenced to the minimum or less.

Between November 2008 and October, local NGOs in Central Java recorded 614 cases of violence against women in the province, including 210 rape cases.

The law prohibits domestic abuse and other forms of violence against women. However, domestic violence was a problem. Violence against women remained poorly documented by the government. Nationwide figures were unavailable. Komnas Perempuan, a semiautonomous government entity, reported that in 2008 there were 54,425 cases of violence handled by partner organizations across the country, and the local press reported that violence against women continued to increase. Most NGOs working on women and children's issues believed the real figure was far higher, noting the tendency of many victims to keep silent. Komnas Perempuan reported that domestic violence was the most common form of violence against women, making up approximately 76 percent of total cases.

Social pressure forced many women not to report spousal abuse. During the year, the Women's Legal Aid Foundation received 1,058 complaints of spousal abuse, including rape and sexual harassment. Two types of crisis centers were available for abused women: government-run centers in hospitals and NGO centers in the community.

Nationwide the police operated "special crisis rooms" or "women's desks" where female officers received criminal reports from female and child victims of sexual assault and trafficking and where victims found temporary shelter.

According to NGOs, some female genital mutilation (FGM) of women over the age of 18 occurred. A Ministry of Health decree forbids medical personnel from performing such procedures; however, this did not affect traditional circumcisers and birth attendants, who did most female circumcisions.

The legal distinction between a woman and a girl was not clear. The law sets the minimum marriageable age at 16 for a woman (19 for a man), but the Child Protection Law states that persons under age 18 are children. A girl who marries has adult legal status. Girls frequently married before reaching the age of 16, particularly in rural areas.

Prostitution is interpreted as a "crime against decency/morality" and against the law. Prostitution was widespread and largely tolerated, despite its contradiction with popular societal and religious norms. During the year security forces reportedly participated in operating brothels or protection rackets by shielding brothels from prosecution. International sex tourism and child sex tourism reportedly continued, especially on the islands of Batam and Karimun and in major urban centers across the country.

Although not explicitly mentioned, sexual harassment is against the law and actionable under the criminal code.

The government recognizes the right of individuals and couples to choose the number, spacing, and timing of children. Although the government subsidized and provided access to contraception making it available throughout the country, women were sometimes denied the opportunity to select the contraceptive methods best suited to their needs or preferences. According to NGOs, 55 percent of married women used contraception. Informed sources believed that 79 percent of women had skilled birth attendants at delivery and 32 percent received prenatal or postnatal obstetric care. Government policy provides that women and men had equal access to diagnosis and treatment for sexually transmitted infections, including HIV.

The law states that women have the same rights, obligations, and opportunities as men; however, it also states that women's participation in the development process must not conflict with their role in improving family welfare and educating the younger generation. The marriage law designates the man as the head of the family. Women in many regions of the country, particularly in Papua, complained about differential treatment based on gender.

Divorce is available to both men and women. Many divorcees received no alimony, since there was no system to enforce such payments. If there is no prenuptial agreement, joint property is divided equally. The law requires a divorced woman to wait 40 days before remarrying; a man can remarry immediately. The government continued to implement Shari'a in Aceh. The impact of this implementation varied across the province but, continuing the pattern of the last few years, in general appeared to be less intrusive due to improved government oversight of the Shari'a police. The most visible impact on women's rights appeared to be the enforcement of dress codes. It was not uncommon for Shari'a police to briefly stop and lecture women whose dress did not conform to local Shari'a requirements on appropriate attire.

Local governments and groups in areas outside Aceh also undertook campaigns to promote conformity by women with the precepts of Shari'a. Vigilance in enforcing separation of sexes, fasting, and dress codes increased during Ramadan. Women faced discrimination in the workplace, both in hiring and in gaining fair compensa-

tion. According to a 2007 International Trade Union Confederation (ITUC) report, women on average earned 74 percent of what men earned, were overrepresented in unpaid and lower-paying positions in the informal sector, and held only 17 percent of managerial positions. According to the government, women constituted 43 percent of all civil servants but less than 7 percent of senior officials. Some activists said that in manufacturing, employers relegated women to lower-paying, lower-level jobs. Many female factory workers were hired as day laborers instead of as full-time permanent employees, and companies were not required to provide benefits, such as maternity leave, to day laborers. By law if both members of a couple worked for a government agency, the couple's head-of-household allowance was given to the husband.

Jobs traditionally associated with women continued to be significantly undervalued and unregulated. For example, domestic labor receives little legal protection. Under the labor law, domestic workers are not provided with a minimum wage, health insurance, freedom of association, an eight-hour work day, a weekly day of rest, vacation time, or safe work conditions. Consequently, as reported by NGOs, abusive treatment and discriminatory behaviour continued to be rampant.

According to International Labor Organization (ILO) reports, women's hourly wages as a percentage of men's wages increased from 78 percent in 2004 to 83 percent in 2008. Women in administrative and managerial jobs reportedly earned more than their male counterparts in 2008. However, women were still underrepresented at the managerial level.

Children.—Citizenship is acquired primarily through one's parents; however, it can be acquired through birth in national territory. Although the law provides for free birth registration, it was not enforced, and approximately 30 percent of citizen births were not registered. Without birth registration, families may face difficulties in accessing government-sponsored insurance benefits and enrolling children in schools. It was often impossible to be certain of a child's age, and ages were falsified on identity cards, sometimes with the cooperation of government officials.

Although the law provides for free education, in practice most schools were not free of charge, and poverty put education out of the reach of many children. By law children are required to attend six years of elementary school and three years of junior high school; however, in practice the government did not enforce these requirements. Although girls and boys ostensibly received equal educational opportunities, boys were more likely to finish school.

Some provinces and districts, such as South Sumatra Province and Serdang Bedagai District in North Sumatra Province, have local policies for compulsory education for 12 years or up to senior secondary.

The national government provided educational assistance to 2.2 million elementary school students of the 26 million elementary school students, 10 percent of whom were from poor families. The government categorized as poor a person earning 250,000 rupiah (\$25) or less per month.

Child labor and sexual abuse were serious problems. According to the National Commission for Child Protection (Komnas Perlindungan Anak) estimates, between 70,000 and 90,000 children were victims of sexual abuse during the year. The Child Protection Act addresses economic and sexual exploitation of children as well as adoption, guardianship, and other issues; however, some provincial governments did not enforce its provisions. Child abuse is prohibited by law, but government efforts to combat it generally continued to be slow and ineffective. NGOs reported excessively long waits to bring a child rape case to court and unclear mechanisms for reporting and dealing with child abuse.

According to ILO data from 2007, there were 21,000 child prostitutes in Java. Nationally, the ILO estimated 40,000 to 70,000 children were the victims of sexual exploitation.

According to Komnas Perlindungan Anak, 6.5 million children under the age of 18 were working because of poverty.

FGM was practiced in many parts of the country. Complications from the FGM surgical procedures reportedly were minimal. Some NGO activists dismissed any claims of mutilation, saying the ritual as practiced in the country was largely symbolic. In 2007 the minister of women's empowerment called for a complete ban of the practice. In 2006 the Ministry of Health banned FGM by doctors and nurses. However, symbolic female circumcisions that did not involve physical damaging of the child could be carried out, and violators of the ban did not face prosecution. According to NGOs, nearly 96 percent of families reported that their daughters had undergone circumcision by the time they reached 14. NGO activists said that female circumcision was seen as a religious duty.

During the year national attention continued to focus on the problem of child marriage following reports that a Muslim cleric, Syech Puji, married a 12-year-old girl

in Semarang, Central Java, in 2008. Senior Muslim clerics strongly criticized the marriage, and the cleric was investigated. In November 2008 Komnas Perlindungan Anak persuaded the cleric to return the child to her parents until she reaches 16 years of age. The commission was unable to annul the marriage. On October 13, a district court dismissed all charges against Syech Puji.

Commercial sexual exploitation of children continued to be a serious problem. The number of child prostitutes in the country was unclear, but the problem was widespread. Many teenage girls were forced into prostitution often through debt bondage.

Although government policy was not to detain or imprison victims of child sexual exploitation, some victims reportedly were treated as criminals and penalized for prostitution activities. Corrupt civil servants issued falsified identity cards to underage girls, facilitating entry into the sex trade. There also were reports of sexual exploitation of boys. The country was a destination for child sex tourism. During the year NGOs reported that pedophile rings continued to operate in Bali. NGO observers said many girls were forced into prostitution after failed marriages entered into when they were 10 to 14 years of age. There was no obvious violation of the law because their paperwork identified them as adults due to the fact that they were once married.

There is no statutory rape law nor an established age for consensual sex. The 2008 Pornography Law prohibits child pornography and establishes penalties.

In 2008 the ILO's International Program on the Elimination of Child Labor (ILO-IPEC) estimated that there were 1,450 street children in an East Jakarta municipality, 38 percent girls, a marked increase in the percentage of girls compared with earlier surveys. According to government officials, there were an estimated 233,000 street children in the country.

East Java was home to more than 8,200 street children, many reportedly susceptible to sexual abuse and violence. Approximately 40 shelters in the province provided services to such children. According to the Ministry of Social Affairs, in January there were 1,305 street children under the supervision of various rehabilitation centers in Jakarta. The government continued to fund other shelters administered by local NGOs and paid for the education of some street children.

A UN report found that juvenile detainees in prisons across Java were subjected to harsh conditions. The report noted that both police and other inmates subjected children as young as 10 to severe physical abuse. Although children were detained in juvenile detention centers, due to the high number of detainees children frequently were mixed with the general population in both jails and prisons, increasing the potential for abuse.

During the year the International Centre for Prison Studies reported that there were 1,993 children awaiting trial and 2,516 children in the prison population.

NGOs reported that the government paid little attention to the rights of juvenile offenders. Juveniles were held in the same detention facilities as adults during pretrial and trial phases of detention and frequently experienced abuse while in detention. According to the government, 5,760 children received jail sentences during the year. Substantial numbers of street children were apparent in Jakarta and the provinces of East Java, West Java, North Sumatra, and South Sulawesi.

Trafficking in Persons.—The antitrafficking law outlaws all forms of trafficking, including debt bondage and sexual exploitation, and includes a comprehensive mandate for rescue and rehabilitation of victims. It provides stiff penalties for officials and labor agents complicit in trafficking. Penalties range from between three to 15 years in prison, with penalties for officials assessed at a rate one-third higher. Provincial and local governments also increased efforts and resources to fight trafficking. The country's embassies and consulates were active in rescuing and assisting victims.

The country remained a major source for international trafficking in persons and faced a significant internal trafficking problem. It also was a receiving country for trafficked prostitutes, although the number was small relative to the number of citizen victims. The country was not a major transit point for trafficking. Malaysia and Saudi Arabia, as well as other countries in the Middle East and Asia, were destinations, and there were some cases of trafficking to the United States. Trafficking for prostitution, domestic service, and work in restaurants and hotels were more common, with some forced labor in construction and plantation work. Impoverished citizens were potential victims, but boys and girls under age 18 and women of all ages were most vulnerable. Victims were subjected to physical and psychological abuse, sometimes resulting in death.

The sophisticated national trafficking network was decentralized with neighborhood brokers trafficking victims to labor-supply agencies in large cities, which in turn sold victims to labor-supply agencies in receiving countries. Local government,

immigration, and manpower officials often were complicit in the process. The domestic trafficking of women and girls into prostitution operated in a similar manner. Local officials, police, and military were complicit in this activity as well. Some labor recruitment companies operated in a manner similar to trafficking rings, luring both male and female workers into debt bondage, involuntary servitude, and other trafficking situations.

Law enforcement against traffickers has increased somewhat in recent years; the most recent statistics show prosecutions increased from 109 to 129, and convictions from 46 to 55. In 2008 the average sentence was 43 months in prison. The government trained more law enforcement officials on fighting trafficking, often in inter-agency courses also attended by NGOs. The numbers of special antitrafficking police and prosecutors increased. A new National Plan of Action was finalized in September.

The government was renegotiating a memorandum of understanding (MOU) with Malaysia. One of the issues being renegotiated was the basic right of workers to hold their travel documents. Exploitation of workers by manpower placement companies continued to be widespread. The decentralized approach to rescuing, treating, and reintegrating victims and inadequate funding for victim assistance hindered implementation of the law. The national budget for antitrafficking remained far below needs, and local budgets were uneven and generally insufficient. There was no progress in stopping officials from abetting trafficking in prostitution, for example, by falsifying documents. No action was taken to protect women and children entrapped in debt bondage as domestic servants within the country. The migration system continued to allow exploitation of migrant workers and lacked sufficient protections against trafficking.

During the year the media reported a large number of trafficking cases, and the police pursued cases, including cases of child trafficking, in Tanjung Pinang (Riau Province), Medan (North Sumatra), Bandar Lampung (Lampung Province), Bekasi and Bogor (West Java), Semarang (Central Java), and Malang and Jember (East Java). The police and the Ministry of Women Empowerment noted new modes of child trafficking recruitment. Traffickers offered vocational students internship opportunities abroad that ultimately led to labor or sexual exploitation.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The government classifies persons with disabilities into four categories: blind, deaf, mentally disabled, and physically disabled. The law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, or the provision of other state services. The law also mandates accessibility to public facilities for persons with disabilities; however, the government did not enforce this provision. The government estimated that approximately 3 percent of the population had a disability.

Few buildings and virtually no public transportation facilities were accessible to persons with disabilities. The law requires companies that employ more than 100 workers to set aside 1 percent of positions for persons with disabilities. However, the government did not enforce the law, and persons with disabilities faced considerable discrimination.

In urban areas only a few city buses offered wheelchair access, and many of those had their hydraulic lifts vandalized, rendering them unusable. Few companies provided facilities for persons with disabilities, and fewer companies employed such persons. Surabaya's airport opened in 2006 and was not accessible for persons with disabilities. Lack of funds was generally cited as the primary reason for not improving accessibility.

In 2003 the government stated the country was home to 1.3 million children with disabilities; the actual number was believed to be much higher. The law provides children with disabilities with the right to an education and rehabilitative treatment. A government official alleged that many parents chose to keep children with disabilities at home; however, many schools refused to accommodate such children, stating they lacked the resources to do so. According to the government, there were 1,568 schools dedicated to educating children with disabilities, 1,202 of them run privately. According to NGOs, more than 90 percent of blind children were illiterate. Some young persons with disabilities resorted to begging for a living.

The Ministry of Social Affairs is responsible for protecting the rights of persons with disabilities.

National/Racial/Ethnic Minorities.—The government officially promotes racial and ethnic tolerance. Ethnic Chinese accounted for approximately 3 percent of the population, played a major role in the economy, and increasingly participated in politics. However, some ethnic Chinese noted that, despite recent reforms, public serv-

ants still discriminated against them when issuing marriage licenses and in other services and often demanded bribes for a citizenship certificate, although such certificates were no longer legally required. A number of articles of law, regulation, or decree discriminated against ethnic Chinese citizens. NGOs such as the Indonesia Antidiscrimination Movement urged the government to revoke the remaining discriminatory articles.

Indigenous People.—The government viewed all citizens as “indigenous”; however, it recognized the existence of several “isolated communities” and their right to participate fully in political and social life. These communities include the myriad Dayak tribes of Kalimantan, families living as sea nomads, and the 312 officially recognized indigenous groups in Papua. During the year indigenous persons, most notably in Papua, remained subject to widespread discrimination, and there was little improvement in respect for their traditional land rights. Mining and logging activities, many of them illegal, posed significant social, economic, and logistical problems to indigenous communities. The government failed to prevent domestic and multinational companies, often in collusion with the local military and police, from encroaching on indigenous peoples’ land. In Papua tensions continued between indigenous Papuans and migrants from other provinces, between residents of coastal and inland communities, and among indigenous tribes.

Human rights activists asserted that the government-sponsored transmigration program transplanting poor families from overcrowded Java and Madura to less populated islands violated the rights of indigenous people, bred social resentment, and encouraged the exploitation and degradation of natural resources on which many indigenous persons relied. In some areas, such as parts of Sulawesi, the Maluku, Kalimantan, Aceh, and Papua, relations between transmigrants and indigenous people were poor.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The 2008 Pornography Law bans gay and lesbian sex. According to NGOs, lesbian, gay, transgender, and bisexual (LGBT) issues were characterized as socially taboo. The government took almost no action to prevent discrimination against LGBT persons or to spur action by the police in investigating societal abuse against LGBT persons. Police corruption, bias, and violence caused LGBT individuals to avoid interaction with police. NGOs reported that LGBT individuals were socially ostracized by family members and the general public.

On September 6, the provincial legislature in Aceh passed a law criminalizing homosexual conduct.

LGBT organizations and NGOs operated openly. However, certain religious groups sporadically disrupted LGBT gatherings and individuals were sometimes victims of police abuse.

On May 16, LGBT organizations held gay pride marches in Jakarta, Surabaya, Yogyakarta, Makassar, and Banda Aceh commemorating the International Day Against Homophobia. Organizers were able to obtain necessary permits from the government and police provided protection to the marchers.

NGOs documented instances of government officials not issuing identity cards to LGBT individuals.

Other Societal Violence or Discrimination.—Stigma and discrimination against persons with HIV/AIDS were pervasive. However, the government encouraged tolerance, took steps to prevent new infections, and provided free antiretroviral drugs, although with numerous administrative barriers. The government position of tolerance was adhered to unevenly at all levels of society; for example, prevention efforts often were not aggressive for fear of antagonizing religious conservatives, and in addition to barriers to access to free antiretroviral drugs, potential recipients had to pay medical fees that put the cost beyond the reach of many.

Section 7. Worker Rights

a. The Right of Association.—The law provides broad rights of association for workers, and workers exercised these rights. The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and workers did so in practice. The law stipulates that 10 or more workers have the right to form a union, with membership open to all workers, regardless of political affiliation, religion, ethnicity, or gender. Private sector workers are by law free to form worker organizations without prior authorization, and unions may draw up their own constitutions and rules and elect representatives. The Ministry of Manpower and Transmigration records, rather than approves, the formation of a union, federation, or confederation and provides it with a registration number. In recent years some unions reported local ministry offices prejudicially recommended denial

of registration. The vast majority of union members belonged to one of three union confederations.

During the year, according to labor sources, 10 percent of workers in the formal sector were trade union members, and more than 35 percent of workers in the service sector belonged to unions.

The law recognizes civil servants' freedom of association and right to organize, and employees of several ministries formed employee associations; union organizations sought to organize these workers. Unions also sought to organize state-owned enterprise (SOE) employees, although they encountered resistance from enterprise management, and the legal basis for registering unions in SOEs remained unclear.

The law allows the government to petition the courts to dissolve a union if it conflicts with the state ideology or the constitution. A union may also be dissolved if a union's leaders or members, in the name of the union, commit crimes against the security of the state and are sentenced to at least five years in prison. Once a union is dissolved, its leaders and members may not form another union for at least three years. There were no reports that the government dissolved any unions during the year.

Under the Manpower Development and Protection Act (the Manpower Act), workers must give written notification to the authorities and to the employer seven days in advance for a strike to be legal, specifying the starting and ending time of the strike, venue for the action, reasons for the strike, and including signatures of the chairperson and secretary of the striking union. A ministerial regulation declares illegal all strikes at "enterprises that cater to the interests of the general public or at enterprises whose activities would endanger the safety of human life if discontinued." Types of enterprises included in this classification are not specified, leaving it to the government's discretion. The same regulation also classifies strikes as illegal if they are "not as a result of failed negotiations" and gives employers' leeway to obstruct a union's move to strike because failure is classified as negotiations that lead to a deadlock "declared by both sides."

Before workers can strike, they must also engage in lengthy mediation with the employer, beginning with bargaining and, if that fails, proceed to mediation facilitated by a government mediator. The ministerial regulation also provides that, in the case of an illegal strike, an entrepreneur must make two written appeals within a period of seven days for workers to return. Workers who do not respond to those appeals are considered to have resigned. Employers commonly used such appeals as intimidation tactics against strikers.

In practice strikes were prohibited in the public sector, in essential services, and at enterprises that served the public interest. The ITUC asserted that such practice clearly exceeded the definition of acceptable prohibitions on strike action by the ILO Committee on Freedom of Association, which has held that strikes may only be restricted where there exists "a clear and imminent threat to the life, personal safety, or health of the whole or part of the population." The prolonged, legally mandated mediation procedures that must be followed before calling a strike were not enforced. Strikes tended to be unsanctioned "wildcat" strikes that broke out after a failure to settle long-term grievances or when an employer refused to recognize a union.

The underpayment or nonpayment of legally required severance packages precipitated strikes and labor protests.

On September 18, more than 300 food service workers from the Congress of the Indonesian Labor Union Alliance (KASBI) demonstrated at Surabaya Plaza Shopping Centre to protest the dismissal of two contract workers by a Kentucky Fried Chicken outlet operated by PT Fast Food Indonesia. A KASBI spokesperson said that 20 of the company's 120 workers were employed under an internship program without government authorization.

On December 10, police injured at least nine persons among approximately 15,000 members of the Federation of Indonesian Metal Workers' Union who were demonstrating in front of the governor's and regent's offices in Batam demanding a wage increase.

In December 2008 workers at an electronic components company in Bekasi went on a two-day strike to object to outsourcing of core positions. After the strike the company petitioned to the Manpower Ministry to terminate all of the 94 workers who were also members of the striking union. The company reported the union to the police for committing an unpleasant act by causing them to lose profits as a result of the strike and filed a lawsuit against the union in civil court also for lost profits. As a result of the dismissal of all union officers and strike participants, the union was dissolved. On September 15, the Bekasi District Court dismissed the case on the grounds that the union was not a proper legal entity before the court but invited the corporation to refile against union officers.

b. The Right to Organize and Bargain Collectively.—According to the Manpower Ministry, approximately 25 percent of companies with more than 10 employees had collective bargaining agreements. However, in reality these agreements rarely went beyond the legal minimum provisions set by the government and often resulted from employers unilaterally drawing up agreements and presenting them to workers' representatives for signature rather than negotiation. The law allows unions to conduct their activities without interference; however, the government often did not protect this right in practice. The law provides for collective bargaining and allows workers' organizations that register with the government to conclude legally binding collective labor agreements (CLAs) with employers and to exercise other trade union functions. The law includes some restrictions on collective bargaining, including a requirement that a union or unions represent more than 50 percent of the company workforce to negotiate a CLA. The Manpower Act, which regulates collective bargaining, the right to strike, and general employment conditions, does not apply to SOEs. Some unions claimed that the law contains inadequate severance benefits and protection against arbitrary terminations and does not sufficiently restrict outsourcing and child labor. At year's end no implementing regulations had been issued.

Company regulations, permitted under government regulations, substituted for CLAs in the vast majority of enterprises, many of which did not have union representation. The Manpower Act requires that employers and workers form joint employer/worker committees in companies with 50 or more workers, a measure to institutionalize communication and consensus building.

Unions were directly affected by the increasing trend of using contract labor. Under the Manpower Act, contract labor is supposed to be used only for work that is "temporary in nature." However, according to ITUC, many employers violated these provisions with the assistance of local offices of the Manpower Ministry. There also were credible reports of widespread use of vocational students under internship programs, which appeared to violate labor laws and weaken unions. Typically, companies declared bankruptcy in order to avoid severance payments provided for under law, closed the factory for several days, and then rehired workers as contract labor at a lower cost. Union leaders and activists usually were not rehired. To date no labor court has ruled in favor of workers who have filed either for compensation or to be rehired.

The law prohibits employment discrimination against union organizers and members and provides penalties for violations; however, in many cases the government did not effectively enforce the law. There were credible reports of employer retribution against union organizers, including dismissals and violence that were not prevented effectively or remedied in practice. Some employers warned employees against contact with union organizers. Some unions claimed that strike leaders were singled out for layoffs when companies downsized. Legal requirements existed for employers to reinstate workers fired for union activity, although in many cases the government did not enforce this effectively. According to ITUC, legal procedures were very long, with antiunion discrimination cases sometimes taking up to six years. Bribery and judicial corruption in workers' disputes continued, and decisions often were not in workers' favor. While dismissed workers may be financially recompensed, they were rarely reinstated.

Companies sometimes transferred union leaders to jobs where they could not continue their union activities.

Labor activists charged that managers in some locations employed thugs to intimidate and assault trade union members who attempted to organize legal strike actions, and at times the police intervened inappropriately and with force in labor matters, usually to protect employers' interests.

In recent years employers have repeatedly filed criminal complaints against union officers following failed collective bargaining negotiations or lawful strikes. In a number of cases, union officers were prosecuted and even served prison time for destruction of property and interference with profits as a result of complaints brought by employers. Some provisions in criminal law have aided these tactics, such as a crime of "unpleasant acts," which creates criminal liability for a broad range of conduct.

On March 1, PT Tirta Samudera Caraka rejected its labor agreement with a Confederation of the Indonesian Prosperity Labor Union and informed its workers that they would have to sign individual employment contracts to continue their employment. The union began a strike on March 4 but returned to work the next day when the company said it would meet with the union. However, the company dismissed 40 workers, all of whom were union members. At year's end attempts to mediate the dispute through government procedures appeared unsuccessful.

On March 27, PT Smart Glove Indonesia in Medan, North Sumatra, summarily dismissed 97 workers for attempting to form a union.

On May 7, airport workers, represented by Serikat Pekerja PT Angkasa Pura 1 union (SPAP-1), staged strikes at five airports operated by state-owned PT Angkasa Pura 1. The union maintained that the company had not implemented provisions in their 2006 agreement concerning salaries, pension payments, and health insurance. Several SPAP-1 members were fired or suspended apparently because of the strike action.

On July 24, management at PT Bekaert Advanced Filtration in Tangerang dismissed all worker representatives of the Lomenik-SBSI. Additionally, the company allegedly retaliated against union members by denying overtime compensation, pressuring workers to resign from the union, offering bribes to union leadership, and interrogating workers about their union activities.

On October 3, a company official at PT Remaja Pesona Industri, a garment factory in Malang, dismissed more than 50 of its 150 workers. According to union officials, the company dismissed workers who participated in a recent strike over holiday bonuses.

There are no special laws or exemptions from regular labor laws in special economic zones (SEZs). However, nongovernmental observers described stronger antiunion sentiment and actions by employers in SEZs. For example, employers in manufacturing enterprises in the Batam SEZ tended to hire labor on two-year contracts and favored workers under 24 years of age. Both practices inhibited union formation.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced labor or compulsory labor; however, there were reports that such practices occurred, including forced and compulsory labor by children. The government tolerated forms of compulsory labor practiced in the migrant worker recruitment process. The unscrupulous practices of migrant worker recruiting agencies and poor enforcement of government regulations often led to debt bondage and extended unlawful confinement. According to press reports and research by labor NGOs, recruiting agencies frequently kept migrant workers in holding centers, for as long as 14 months in some cases, before sending them abroad. While in the holding centers, migrant workers normally did not receive pay, and recruiters often did not allow them to leave the centers. In most instances workers were forced to pay recruiters for the cost of their forced stay, resulting in large debts to the recruiters. The Manpower Ministry took limited measures to enforce labor laws that prevent employment agencies from trafficking workers through debt bondage.

At year's end the government was still in the process of renegotiating the 2006 MOU with the government of Malaysia about Indonesian workers' conditions in Malaysia. The MOU ceded some basic worker rights to employers, particularly the right of workers to hold their own passports.

Girls and women employed as household servants often were held in debt bondage. According to a 2007 study by the Women's Legal Aid Foundation, 89,930 domestic workers in Jakarta were working without pay.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits children defined as persons under the age of 18 from working in hazardous sectors and the worst forms of child labor. However, the government did not enforce these laws effectively. Law, regulations, and practice acknowledged that some children must work to supplement family incomes. Children, 13 to 15 years of age, may work no more than three hours per day and only under a number of other conditions, such as parental consent, no work during school hours, and payment of legal wages. A strong legal framework and National Action Plans address economic and sexual exploitation, including child prostitution, child trafficking, and the involvement of children in the narcotics trade, and provide severe criminal penalties and jail terms for persons who violate children's rights. Implementation remained a problem.

An estimated six to eight million children exceeded the legal three-hour-daily work limit, working in agriculture, street vending, mining, construction, prostitution, and other areas. More children worked in the informal than the formal sector. Some children worked in large factories, but their numbers were unknown, largely because documents verifying age could be falsified easily.

Children worked in agriculture primarily on palm oil, tobacco, rubber, tea, and marijuana plantations. Children also worked in fisheries, construction, manufacturing (such as cottage factory footwear production, textiles, cigarette production), logging, toy making, food processing (e.g., bird nest gathering), and in the small-scale mining sector. Other children work in the informal sector selling newspapers, shining shoes, street vending, scavenging, and working with their parents in family businesses or cottage industries.

NGOs documented hundreds of children ages 13 to 17 working in cottage shoemaking industry in West Java. Many girls between 14 and 16 years of age worked as live-in domestic servants. A domestic worker advocacy group estimated that there were four million domestic workers in the country, of whom at least one million were under age 18. According to the Komnas Perlindungan Anak, approximately 2.1 million children worked as housemaids or sex workers within the country and overseas. Many child servants were not allowed to study and were forced to work long hours, received low pay, and generally were unaware of their rights.

The law and regulations prohibit bonded labor by children; however, the government was not effective in eliminating forced child labor, which remained a serious problem. A significant number of children worked against their will in prostitution, pornography, begging, drug trafficking, domestic service, and other exploitive situations, including a small number on fishing platforms.

Despite legislative and regulatory measures, most children who worked, including as domestics, did so in unregulated environments. Anecdotal evidence suggested that local labor officials carried out few child labor investigations.

At the end of 2008, ILO-IPEC Jakarta, in collaboration with various local universities/research institutes, conducted baseline surveys in a number of localities in North Sumatra, Lampung, and East Java. The surveys identified 3,396 children ages seven to 17 years who were engaged in plantations work (palm oil, rubber, tobacco, coffee, coconut), of whom 28 percent were age 12 years and below and 52 percent were not in school.

According to the National Labor Force Survey conducted by National Statistics Body in 2007, approximately one million children were working, of whom 60 percent were boys and 40 percent girls. However, due to prejudice and less attention to girls in this issue, the number of working girls was often underestimated by statistical surveys, which did not generally account for unpaid economic activities such as work in household enterprises or hidden activities such as prostitution, child trafficking, and domestic work, in which a large numbers of girls were involved.

e. Acceptable Conditions of Work.—Provincial and district authorities, not the central government, establish minimum wages, which vary by province, district, and sector. Provincial authorities determined provincial minimum wage levels based on proposals by tripartite (workers, employers, and government) provincial wage commissions. The provincial minimum wage rates establish a floor for minimum wages within the province. Local districts set district minimum wages using the provincial levels as references. Districts also set minimum wages in some industrial sectors on an ad hoc basis. Provinces and districts conducted annual minimum wage rate negotiations, which often produced controversy and protests. In November 2008 scores of workers and union members protested a newly introduced joint ministerial decree on minimum wages designed to discourage local administrations from raising minimum wage rates beyond the financial capabilities of manufacturing firms. The minimum wage levels set by most local governments did not provide a worker and family with a decent standard of living. Most province-level minimum wage rates fell below the government's own calculation of basic minimum needs. During the year Papua offered the highest minimum wage at 1.1 million rupiah (approximately \$123) per month, while the Manpower Ministry reported official minimum wages as low as 500,000 rupiah (\$60) per month in East Java.

Local manpower officials were responsible for enforcing minimum wage regulations. Enforcement remained inadequate, particularly at smaller companies and in the informal sector. In practice official minimum wage levels applied only in the formal sector, which accounted for 35 percent of the workforce. Labor law and ministerial regulations provide workers with a variety of benefits. Persons who worked at more modern facilities often received health benefits, meal privileges, and transportation. The law also requires employers to register workers with and pay contributions to the state-owned insurance agency, JAMSOSTEK.

The law establishes a 40-hour workweek, with one 30-minute rest period for every four hours of work. Companies often required a five-and-a-half- or six-day workweek. The law also requires at least one day of rest weekly. The daily overtime rate was 1.5 times the normal hourly rate for the first hour and twice the hourly rate for additional overtime, with a maximum of three hours of overtime per day and no more than 14 hours per week. Workers in industries that produced retail goods for export frequently worked overtime to meet contract quotas. Unions complained that companies relied upon excessive overtime in some garment and electronics assembly plants, to the detriment of workers' health and safety. Observance of laws regulating benefits and labor standards varied by sectors and regions. Employer violations of legal requirements were fairly common, sometimes resulting in strikes and protests. The Solidarity Center reported that workers in the garment industry worked extremely long hours, but because their pay slips did not specify the amount

of overtime paid, they could not be certain they were fully compensated for overtime. The Manpower Ministry continued to urge employers to comply with the law; however, government enforcement and supervision of labor standards were weak.

Both the law and regulations provide for minimum standards of industrial health and safety. In practice the country's worker safety record was poor. JAMSOSTEK reported 37,845 accidents in the first three months of 2007, compared with 99,624 for the whole of 2006. Local officials have responsibility for enforcing health and safety standards. In larger companies the quality of occupational health and safety programs varied greatly. Health and safety standards in smaller companies and in the informal sector tended to be weaker or nonexistent. Workers are obligated to report hazardous working conditions, and employers are forbidden by law from retaliating against those who do report hazardous working conditions; however, the law was not enforced effectively. By law workers have the right to remove themselves from hazardous conditions without jeopardizing employment; in practice it was not clear they could avail themselves of this right.

JAPAN

Japan is a parliamentary democracy with a population of approximately 127.7 million. In elections held in August, the Democratic Party of Japan ended the Liberal Democratic Party's half-century dominance of the government when it captured a majority in the legislature's lower house, adding to the plurality it captured in the upper house in 2007. Yukio Hatoyama became the prime minister in August, replacing Taro Aso. The elections were generally considered free and fair. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the rights of its citizens. Human rights non-governmental organizations (NGOs) reported problems with the country's detention facilities and legal system. There were several reports of government corruption during the year. Reported cases of violence and other abuse against women and children increased. Sexual harassment and employment discrimination continued to be reported. Trafficking in persons remained a problem. Discrimination against children born out of wedlock and minorities were problems.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and the government generally respected these provisions in practice.

NGOs and foreign diplomats reported instances of alleged physical abuse in some prisons. In February, in the civil case against Wakayama Prefecture and the state regarding three police officers convicted for the 2004 death of a suspect, the court found Wakayama Prefecture responsible and ordered compensation.

The government continued to deny death-row inmates and their families information about the date of execution. Families of condemned prisoners were notified of the execution after the fact. The government stated this policy was to spare the prisoners the anguish of knowing when they were going to die. Condemned prisoners, although held in solitary confinement for an average of almost eight years until their execution, were allowed visits by their families, lawyers, and other persons. An NGO reported that prisoners facing the death penalty were sometimes kept in solitary confinement for decades and concluded that a number of these prisoners had become mentally ill as a result.

NGOs continued to report that prison management regularly abused the rules on solitary confinement. Punitive solitary confinement may be imposed for a maximum of 60 days, but procedures allow wardens to keep prisoners in "isolation" solitary confinement indefinitely. Officials at Fuchu Prison used such procedures to keep a foreign prisoner in isolation for the past four years. Prison officials said that solitary confinement was an important tool to maintain order in prisons that were at or above capacity.

Hazing, bullying, and sexual harassment were increasingly reported as problems in the Japanese Self Defense Forces.

Prison and Detention Center Conditions.—Prison conditions generally met international standards. However, several facilities were overcrowded and lacked heat-

ing. NGOs also reported that some facilities provided inadequate food and medical care. Foreign diplomatic officials confirmed numerous cases in which the prison diet was inadequate to prevent significant weight loss, including muscular mass. Cases of slow and in some cases inadequate medical treatment were documented, including in detainees and prisoners with preexisting medical conditions. Police and prison authorities were particularly slow providing treatment of mental illness. In some institutions clothing and blankets were insufficient to protect inmates against cold weather. Most prison facilities did not provide heating during nighttime hours in winter despite freezing temperatures. The lack of heating subjected the prison population to a range of preventable cold injuries, from chilblains to more severe forms of cold injury. Foreign prisoners in the Tokyo area presented to visiting diplomatic officials chilblains-affected fingers and toes of varying severity, the direct result of long-term exposure to deleteriously cold and at times freezing conditions in prison and detention facilities during the winter months. NGOs, lawyers, and doctors also criticized medical care in police-operated preindictment detention centers and immigration detention centers.

In 2008 there were 67,672 prisoners. Men and women prisoners were held in separate facilities in prisons and detention centers. Minors were held separately from adults in prisons and regular detention centers, but regulations do not require that minors be held separately in immigration detention centers.

Prison management regulations stipulate that independent committees inspect prisons and detention centers operated by the Ministry of Justice (MOJ) and police-operated detention facilities. The committees included physicians, lawyers, local municipal officials, representatives of local communities, and other local citizens. Prisoner rights advocates reported that the committees visited MOJ prisons throughout the year. In 2008 these committees visited a total of 207 prisons and detention facilities (not including pretrial detention facilities) and interviewed 598 detainees. The committees made 659 recommendations to the prison or detention facility superintendants, of which 366 were considered implemented or in the process of being implemented. In addition, 198 recommendations were considered as requiring either further discussion or follow-up inspections, and 95 were referred to the Ministry of Justice.

In July an amendment to the Immigration Control and Refugee Recognition Law was passed establishing an independent inspection process for immigration detention facilities.

During the year the International Committee of the Red Cross did not request any prison visits.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions. NGOs continued to report instances of what appeared to be arbitrary detentions.

Role of the Police and Security Apparatus.—Civilian authorities maintained effective control over the National Police Agency (NPA) and local police forces, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year. However, some NGOs criticized local public safety commissions for lacking independence from or sufficient authority over police agencies.

Arrest Procedures and Treatment While in Detention.—Persons were apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official, and detainees were brought before an independent judiciary. NGOs claimed that warrants were granted at high rates and that detention sometimes occurred even though the evidentiary grounds were weak.

The law provides detainees the right to a prompt judicial determination of the legality of the detention, and authorities respected this right in practice. The law requires authorities to inform detainees immediately of the charges against them. Authorities usually held suspects in police-operated detention centers for an initial 72 hours. A judge must interview a suspect prior to further detention. The judge may extend preindictment custody by up to two consecutive 10-day periods. Prosecutors routinely sought and received these extensions. Prosecutors may also apply for an additional five-day extension in exceptional crimes such as insurrection, foreign aggression, and disturbance. NGOs pointed out that because extensions were routinely granted, the intent of the law—prompt judicial determination of the legality of the detention—was in fact undermined.

The code of criminal procedure allows detainees, their families, or representatives to request that the court release an indicted detainee on bail. However, bail is not available during preindictment to persons detained in either police or MOJ detention facilities. Because judges customarily granted prosecutors requests for extensions, the system of pretrial detention, known as “daiyou kangoku” (substitute pris-

on), usually continued for 23 days. Suspects in pretrial detention are legally required to face interrogation. NPA guidelines limit interrogations to a maximum of eight hours. Overnight interrogations are prohibited.

Preindictment detainees had access to counsel, including court-appointed attorneys. Prisoner advocates said that in practice this access improved in terms of the duration and frequency. However, counsel may not be present during interrogations. Family members were allowed to meet with detainees, but only in the presence of a detention officer. Article 81 of the code of criminal conduct may, regardless of the charge, prohibit detainees from having interviews with persons other than their counsel only if there is probable cause that the suspect may flee or may conceal or destroy evidence. Detainees charged with drug offenses are routinely held incommunicado until indictment and are allowed only consular and legal access. Prosecutors at their discretion may partially record suspects' confessions, but NGOs pointed out that partial and discretionary recordings could be misleading. Police in Tokyo and 46 prefectures continued testing supervised interrogations.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected judicial independence in practice. In July the country began a lay judge (jury) system for serious criminal cases.

Trial Procedures.—The law provides the right to a fair trial for all citizens and ensures that each charged individual receives a public trial by an independent civilian court, has access to defense counsel, and has the right to cross-examine witnesses. A defendant is presumed innocent until proven guilty in a court of law, and defendants cannot be compelled to testify against themselves.

The UN Committee Against Torture (UNCAT), NGOs, and lawyers questioned whether defendants were presumed innocent in practice. According to NGOs, the majority of indicted detainees confessed while in police custody. Safeguards exist to ensure that suspects cannot be compelled to confess to a crime or be convicted when a confession is the only evidence. In the past NGOs documented techniques used to extract confessions that include beating, intimidation, sleep deprivation, questioning from early morning to late at night, and making the suspect stand or sit in fixed positions for long periods. New NPA guidelines were created in January 2008. On April 1, the National Public Safety Commission issued regulations prohibiting the police from touching suspects (unless unavoidable), exerting force, threatening them, keeping them in fixed postures for long periods, verbally abusing them, or offering them favors in return for a confession. Defense counsel is not allowed to be present during interrogations. However, NGOs continued to report long interrogation sessions of eight to 12 hours in length, in which the detainee was handcuffed to a chair for the entire period, and aggressive questioning techniques were used.

The use of police-operated detention centers was criticized because it puts suspects in the custody of their interrogators. The government stated that article 16 of the Act on Penal Detention Facilities and Treatment of Inmates and Detainees separates the function of investigation from the function of detention. According to government statistics, more than 98 percent of arrested suspects were sent to police detention facilities. The other 2 percent were held in MOJ-operated preindictment detention centers. More than 99 percent of cases that reached a trial court resulted in conviction. Independent legal scholars alleged that the judiciary gives too much weight to confessions, although the government disputed the assertion.

There were media reports of persons convicted on the basis of police-obtained confessions who were later proved innocent. During the year a man sentenced to life imprisonment after DNA tests led to his conviction in 1990 for the murder of a four-year-old girl in Ashikaga, Tochigi Prefecture, was released after more-accurate DNA tests exonerated him. Despite errors in the basic investigation, including autopsy findings that conflicted with the suspect's confession, the prosecutors and the courts dismissed the possibility that the confession was coerced. The same questionable DNA testing methods contributed to guilty rulings in other cases, including some involving the death penalty.

According to some independent legal scholars, trial procedures favor the prosecution, although the government disputed the claim. The law provides for access to counsel; nevertheless, a significant number of defendants reported that this access was insufficient. The law does not require full disclosure by prosecutors unless the defending attorney is able to satisfy disclosure procedure conditions. In practice this sometimes resulted in the suppression of material that the prosecution did not use in court. As a result, the legal representatives of some defendants claimed that they did not receive access to relevant material in the police record. In appeal attempts in some cases, defense attorneys were not granted access to possible exculpatory DNA evidence. The police's response in those cases was that all evidence was de-

stroyed after the initial trial. The government's official position regarding the disclosure of evidence to defense attorneys is that any evidence, including DNA, can be disclosed through the disclosure procedure in accordance with the code of criminal procedure "if the conditions are met" (see section 4).

The language barrier was a serious problem for foreign defendants. No guidelines exist to ensure effective communication between judges, lawyers, and non-Japanese-speaking defendants. Several foreign detainees claimed that police urged them to sign statements in Japanese that they could not understand and that were not translated adequately. No standard licensing or qualification system existed for court interpreters, and trials proceeded even if no translation or interpretation was provided, despite the government's claims that trials cannot proceed unless translation or interpreting is provided. In Gunma Prefecture, police recruited volunteers to translate for the police during investigations.

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

Civil Judicial Procedures and Remedies.—There is an independent and impartial judiciary in civil matters. Persons have access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation. There are administrative remedies as well as judicial remedies for alleged wrongs.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

Internet Freedom.—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Approximately 75 percent of the population used the Internet.

Academic Freedom and Cultural Events.—There were no government restrictions on academic freedom or cultural events. The Ministry of Education's approval process for history textbooks continued to be a subject of controversy, particularly regarding the treatment of certain subjects pertaining to the 20th century. Some textbook authors accused the Ministry of Education of editing their writing in ways that distort the intended meaning. The national anthem and national flag continued to be controversial symbols. Since 2003 almost 400 teachers have been disciplined for refusing to sing the national anthem in front of the flag.

b. Freedom of Peaceful Assembly and Association.—The law provides for the freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The law provides for freedom of religion, and the government generally respected this right in practice. However, the Unification Church continued to report that authorities did not intercede in reported cases of "forced deprogramming" and confinement.

Societal Abuses and Discrimination.—Relations among religious groups were generally amicable. However, since September 2008, according to NPA authorities, more than 50 incidents of vandalism were reported at churches and other religious facilities belonging to Protestant groups in Osaka, Hyogo, Kyoto, and Shiga prefectures. At year's end authorities had not apprehended anyone or discovered the motive.

An estimated 200 Jewish families live in the country. There were no reports of anti-Semitic acts. Advertisements for anti-Semitic books appeared in the media.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, and other persons of concern.

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

Protection of Refugees.—The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 protocol. Its laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The government also announced a small-scale third country resettlement program.

In practice the government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The Partial Amendment to the Immigration Control and Refugee Act, promulgated on July 15, includes language that forbids deportation in breach of conventions, including the Convention Against Torture.

Refugee and asylum applicants could ask lawyers to participate in their appeal hearings before the system of refugee examiners; however, in practice refugee and asylum seekers had limited access to legal representatives due to the limited amount of legal aid available and the small number of lawyers working on asylum matters. Although there was a free counseling service for foreigners, including asylum seekers and refugees, at the Japan Legal Support Center established by the MOJ, there was no public financial assistance to pay legal costs for asylum seekers outside of this center. Lawyers working for asylum seekers who lacked financial means could apply for financial assistance from the Japan Federation of Bar Associations.

The UNCAT, NGOs, and lawyers criticized the indefinite and often long period of detention between the rejection of an application for asylum and deportation. NGOs in particular expressed concern over an increase in the number of asylum seekers detained after rejection of their initial application and while the appeal decision was pending.

Applicants for refugee status normally are not allowed to work unless they meet certain conditions. Persons applying for refugee status to obtain the legal right to work must be in need and completely dependent on government shelters or NGO support. In the interim the Refugee Assistance Headquarters provides small stipends. However, because of budget shortfalls caused by the increase in applications, stricter criteria eliminated this aid to many applicants.

Refugees faced the same patterns of discrimination that ethnic minorities did in the country: reduced access to housing, education, and employment. Except for those who met the conditions stated above, persons whose refugee status was pending or on appeal did not have the legal right to work or receive social welfare, rendering them completely dependent on overcrowded government shelters or NGO support.

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

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

Elections and Political Participation.—In August the country held elections for the lower house of the Diet, which brought an opposition party into power for only the second time in 54 years. The elections were considered generally free and fair, as were the July 2007 elections for the upper house of the Diet.

Political parties operated without restriction or outside interference.

As the result of the August elections, women held a record-high 54 of 480 seats in the lower house of the Diet and 42 of the upper house's 242 seats. At year's end there were three female governors. There were two women in the 18-member cabinet. Because some ethnic minorities are of mixed heritage and do not self-identify, it was difficult to determine the number of minorities that served in the Diet. There were three Diet members who acknowledged being naturalized Japanese citizens.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. During the first half of the year, the NPA reported 27 cases of bribery and 11 cases of bid rigging. There were regular media report of financial and accounting irregularities involving politicians and government officials, including Prime Minister Yukio Hatoyama and Democratic Party of Japan Secretary General Ichiro Ozawa (both cases ended up with no indictments against the two officials but several of their aides were indicted). According to NPA figures for 2008, there were 50 cases involving bribery and 27 cases of bid rigging.

Independent academic experts stated that ties between politicians, bureaucrats, and businessmen were close and that corruption remained a problem. Academics cited the large entertainment industry and the business and government practices that make use of it, along with their large and frequently undisclosed entertainment

budgets, as an example of a practice that could have a corrupting influence on government. In one case, considered typical, a leading member of the Diet upper house registered 2.4 million yen (approximately \$26,580) spent at 11 nightclubs between 2004 and 2007 as “political activities costs.”

Although financial disclosure laws exist, they were laxly enforced. Cooperation with international law enforcement officials investigating suspicious financial transactions and money laundering also was poor.

The public has the legal right to access government information. There were no reports that the government denied legal requests for information or required information seekers to pay prohibitive fees to gain access. A recent study by a nonprofit body disclosed that the Foreign Ministry destroyed approximately 1,280 tons of what it termed “sensitive records” in fiscal year (FY) 2000 (ending in March 2001), ostensibly in anticipation of the information disclosure law that went into effect in April 2001. The Finance Ministry was second in the quantity of material destroyed, eliminating approximately 620 tons.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

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

The government cooperated with international governmental organizations and permitted visits by UN representatives and representatives of other international governmental organizations, including the International Organization for Migration (IOM) and International Labor Organization.

Human rights groups pointed out that the country had not established an independent national human rights institution. The Human Rights Commission reports to the MOJ. There were no official human rights committees in the Diet. However, there were unofficial groups that covered human rights-related matters. For example, there was a group focused on democratization in Burma and another focused on abolishing the death penalty.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the basis of race, gender, disability, language, and social status. Although the government generally enforced these provisions, discrimination against women, ethnic minority groups, and foreigners remained a problem.

Women.—The law criminalizes all forms of rape, including spousal rape, and the government generally enforced the law effectively. According to government statistics, 1,582 rapes were reported in 2008 and 676 during the first half of 2009. Many police stations had female officers to provide confidential assistance to female victims.

Although prohibited by law, domestic violence against women remained a problem. MOJ statistics showed that 51 perpetrators were prosecuted in 2008 under the antisexual violence law. District courts may impose six-month restraining orders on perpetrators of domestic violence to protect threatened or abused spouses and their children under the age of 20 years and may also impose sentences of up to one year in prison or fines of up to one million yen (approximately \$10,000). In 2008 courts granted 2,525 of 3,143 petitions for protection orders, with 450 withdrawals and 168 dismissals. The law, which covers common-law marriages and divorced individuals, includes protection for relatives of victims and persons threatened with violence. According to NPA statistics, in 2008 there were 25,210 reported cases of domestic violence involving women as victims, more than 98 percent of the total. Spousal violence consultation assistance centers reported 66,936 consultation cases in 2008, with women the victims in more than 99 percent of the cases.

Prostitution is illegal but narrowly defined. Many sexual acts for pay that would be considered prostitution in other countries are legal.

Sexual harassment in the workplace remained widespread. In FY2008 the Ministry of Health, Labor, and Welfare (MHLW) received 13,529 consultations, mostly from female workers (60 percent of the total number of consulters). The law includes measures to identify companies that fail to prevent sexual harassment, but it does not include punitive measures to enforce compliance other than publicizing the names of offending companies. The government established hotlines in prefectural labor bureau equal employment departments and charged them with the duty of handling consultations concerning sexual harassment.

Despite apologies by successive Japanese political leaders, a number of NGOs continued to criticize the country’s apologies to and compensation for “comfort women”

(the victims of forced prostitution during World War II) as inadequate. The government provided compensation payments through a government-initiated private fund, expressed remorse, and extended apologies to the victims.

Couples and individuals could decide freely and responsibly the number, spacing, and timing of their children, and they had the information and means to do so free from discrimination, coercion, and violence. Women had access to contraception and skilled attendance during childbirth, including essential obstetric and postpartum care. Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV.

The law prohibits sexual discrimination and generally provides women the same rights as men. The Gender Equality Bureau, a cabinet office in the Ministry of Consumer Affairs and Food Safety, Social Affairs, and Gender Equality, continued to examine policies and monitor progress on gender equality. Its "White Paper on Gender Quality 2009" reviewed 10 years of efforts since the passage of the Basic Law for a Gender-Equal Society and concluded that the situation had "somewhat progressed." However, the white paper concluded that women's participation remained low by international standards, the most frequent obstacle cited being "there are no, or insufficient, systems to support the balance of work and household activities." Other NGOs, such as the National Women's Education Center, were active in efforts to combat employment discrimination based on gender by focusing on training women leaders.

Inequality in employment remained a problem in society. Women composed 41.9 percent of the labor force, slightly up from 2008, and their average monthly wage was 226,100 yen (approximately \$2,500), about two-thirds of the monthly wage earned by men (333,700 yen, or \$3,692).

In August the Committee on the Elimination of Discrimination against Women termed the country's efforts to implement antidiscrimination measures as insufficient. The committee pointed to discriminatory provisions in the civil code, unequal treatment of women in the labor market, and low representation of women in high-level elected bodies. The committee urged the country to abolish a six-month waiting period stipulated in the civil code for women but not men before remarriage, to adopt a system allowing for the choice of surnames for married couples, and to repeal civil code and family registration law provisions that discriminate against children born out of wedlock. The government pointed to changes in its nationality law and civil code that address some of these concerns, including a resolution of the surnames matter, the establishment of women's rights to their husbands' pensions, and improved legal protection for women in child custody issues.

Children.—A child becomes a Japanese citizenship if the father of a child in wedlock is a Japanese citizen, if the mother of a child in or out of wedlock is a Japanese citizen, if the father who died before the birth of a child in wedlock was a Japanese citizen at the time of his death, or if a child is born in Japan and both parents are unknown or do not have nationality. On January 1, a revision to the nationality law went in effect enabling a child born out of wedlock to a citizen father and noncitizen mother, but whose paternity was recognized by the father after birth, to obtain citizenship.

Reports of child abuse continued to increase. In FY2008 there were 42,662 possible cases of child abuse by parents or guardians reported to the National Child Discussion Center, an increase of approximately 2,000 from the previous 12-month period. According to the NPA, 319 children were abused and 45 were killed as a result of abuse by parents or guardians. To better ensure secure children's safety, municipal governments require that suspected abusive parents or guardians be interviewed by child welfare officials and provided with assistance as required. When necessary, suspected homes must also be inspected with the police in a supporting role. The law grants child welfare officials the authority to prohibit abusive parents from meeting or communicating with their children. The law also bans abuse under the guise of discipline and mandates that anyone aware of suspicious circumstances must report the information to a local child-counseling center or municipal welfare center.

Child prostitution is illegal, with a penalty of imprisonment with labor for not more than three years or a fine of not more than one million yen (\$10,000) for offenders, including the intermediary and the person involved in solicitation. However, the practice of "enjo-kosai" (compensated dating) and easy facilitation by means of on-line dating, social networking, and "delivery health" (call girl or escort service) sites made de facto domestic child sex tourism a problem. There are statutory rape laws. The minimum age for consensual sex varies with jurisdiction and ranges from 13 to 18. The penalty for statutory rape is not less than two years' imprisonment at forced labor.

The distribution of child pornography is illegal; the penalty is imprisonment with labor for not more than three years or a fine not exceeding three million yen (\$30,000). Although the distribution of child pornography is illegal, the law does not criminalize the simple possession of child pornography, which often depicts the brutal sexual abuse of small children. The absence of a statutory basis makes it difficult for police to obtain search warrants, preventing them from effectively enforcing existing child pornography laws or participating in international law enforcement efforts in this area. Along with child pornography involving real victims, some law enforcement and pedophilia experts stated that child molesters used cartoons and comics depicting child pornography to seduce children. The role of commonly available sexually explicit comics and anime in the sexual endangerment of children remained controversial, with the NPA stating the link had not been proved. However, other experts believed the situation could be harmful to children by creating a culture that appears to accept sexual intercourse with children or violence against children. Internet service providers acknowledged that the country was a hub for child pornography, leading to greater victimization of children both domestically and abroad.

Trafficking in Persons.—The law establishes human trafficking both for sexual and labor exploitation as a criminal offense. Nonetheless, human trafficking remained a significant problem despite government efforts. The relatively small number of identified victims led some in the police and Immigration Bureau to conclude that trafficking in persons was not a problem. The lack of reliable data on the scale of human trafficking made this controversy difficult to resolve.

The country remained a destination and transit country for men, women, and children trafficked for commercial sexual exploitation and other purposes. Victims came from China, the Republic of Korea, Southeast Asia, Eastern Europe, and to a lesser extent Latin America. There were also reports of an increase in the internal trafficking of girls for sexual exploitation. The majority of identified trafficking victims were foreign women who migrated to the country seeking work but upon arrival were subjected to debt bondage and forced prostitution. Male and female migrant workers from China, Indonesia, the Philippines, Vietnam, and other Asian countries were sometimes subjected to conditions of forced labor.

Agents, brokers, and employers involved in trafficking for sexual exploitation often had connections with organized crime syndicates (the Yakuza), at a minimum in terms of “protection money” paid to organized crime figures or their associates. Some in the NPA pointed out that the identified trafficking cases did not appear to have connections with organized crime. Some NGOs also reported that the sexual exploitation cases appeared to be handled by individuals running prostitution businesses. However, many experts believed that the Yakuza were heavily involved in their traditional businesses, which include prostitution. Reports also showed an increase in former trafficking victims becoming traffickers.

Most women trafficked into the sex trade had their travel documents taken away and their movements strictly controlled by their employers. Victims were threatened with reprisals to themselves or their families if they tried to escape. Employers often isolated the women, subjected them to constant surveillance, and used violence to punish them for disobedience. NGOs reported that in some cases brokers used drugs to subjugate victims.

Debt bondage was another means of control. Before arrival in the country, trafficking victims generally did not understand the size of the debts they would owe, the amount of time it would take them to repay the debts, or the conditions of employment to which they would be subjected upon arrival. Women faced debts of up to 4.5 million yen (\$45,000). In addition, they had to pay their employer for their living expenses, medical care (when provided by the employer), and other necessities. “Fines” for misbehavior added to the original debt, and the process that employers used to calculate these debts was not transparent. Employers also sometimes “resold,” or threatened to resell, troublesome women or women found to be HIV positive, thereby increasing the victims’ debts and often leading to even worse working conditions.

In response to increased police enforcement, many sex business operators shifted from storefront businesses to “delivery” escort services. The shift to Internet-based solicitation and procurement made it much harder to measure the extent to which employers exploited victims of trafficking.

There was no significant improvement in the country’s prosecution of sex trafficking. The government reported 29 prosecutions and 13 convictions in 2008 under the antitrafficking law, compared with 11 prosecutions and 12 convictions in 2007. However, since prosecutors chose to prosecute under the crime they were most assured of getting a conviction, there may have been prosecutions and convictions of traffickers under other laws. Most authorities attributed a decline in numbers from

a peak in 2005 as the result of a crackdown on the “entertainment” visa category, forcing traffickers to use other means. Eleven of the 13 convicted offenders in 2008 received suspended sentences, however, and were not punished with imprisonment beyond time served in detention.

Labor exploitation was widely reported by labor activists, NGOs, shelters, and the media (see section 7.e.). There were two convictions for labor trafficking during the past three years, although Labor Standard Inspection Bodies identified more than 1,209 violations of labor laws in 2006 alone. The NPA identified 36 victims in 2008, down from 43 victims in 2007. This number was considered disproportionately low relative to the suspected magnitude of the trafficking problem. Despite reports by both official and private entities of labor exploitation, the government identified only one victim of labor trafficking in 2008, associated with a sex trafficking case. However, the prosecution of labor traffickers in fact took place under a variety of other labor laws.

There were media reports of government officials using their influence to facilitate trafficking, including a report at the end of 2008 of a secretary to a minister who used his influence to obtain short-term visas for 300 Filipinas to sing at charity concerts but who in fact ended up working as hostesses in pubs. Low-level persons were arrested, but the charges against the secretary and his minister were dropped. In another case a senior immigration officer reportedly received a 5.8 million yen (\$58,000) bribe to facilitate the issuance of “entertainer visas” between July 2007 and November 2009. At year’s end the case was under investigation.

There continued to be reports that police and immigration officers failed to identify victims adequately. Although antitrafficking education efforts for police and immigration officials continued, the country did not use formal victim identification procedures, although it cooperated with the IOM in victim identification.

The country did not dedicate government law enforcement or social services personnel specifically to human trafficking, but there were individuals in various branches of the government and police whose main emphasis was human trafficking. NGOs continued to assert that the government was not proactive in searching for victims among vulnerable populations such as foreign women in the sex trade or migrant laborers. NGOs reported that police and immigration officers occasionally neglected to classify women working in exploitative conditions as victims because they willingly entered the country to work illegally. The government stated that although initially individuals may be identified as having broken a law, once they were recognized as trafficking victims, they received protection and were not held liable for any immigration laws they may have broken or any laws dealing with the type of employment they were forced to undertake.

The MHLW encouraged police and immigration officers to use its preexisting network of shelters for domestic violence victims as temporary housing for foreign trafficking victims awaiting repatriation. The government repatriated 18 of 36 identified trafficking victims without referring them to the IOM for risk assessment and formal repatriation processing in 2008. According to the government, these early repatriations were at the request of the victim. The remaining 18 received services from government shelters. A significant percentage of the foreign women listed as victims of domestic violence may have been trafficking victims and were provided shelter. The government paid for victims’ medical care and subsidized repatriation through a grant to the IOM.

Typically, government shelters lacked the resources needed to provide the specialized services that trafficking victims often require. NGO shelters that specialized in assisting victims did not have full-time staff able to speak other languages at the level required for adequate counseling. The MHLW shelters had to rely on interpretation services from outside providers. While some victims received psychological care in government facilities, the large majority did not have adequate access to trained psychological counselors with native language ability. In cooperation with the IOM, the government began a program to train interpreters in appropriate counseling skills. However, due to the lack of such counseling, the isolation of victims from fellow nationals and other trafficking victims, and the lack of alternatives—particularly any option to work or generate income while in the country—foreign women staying at government shelters elected to repatriate as quickly as possible. Although the government reserved funds to subsidize victims’ stays in private shelters, the majority of victims were referred to public shelters. While the government claimed that victims were eligible for special stay status as a legal alternative to repatriation in cases where victims would face hardship or retribution, there were very few cases of a victim staying in country for more than a few months, and these usually were victims in private shelters or who had found NGO support.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The law prohibits discrimination against persons with physical and mental disabilities in employment, education, and access to health care, and the government generally enforced these provisions; however, the Federation of Bar Associations complained that discrimination is undefined and thus not enforceable through judicial remedies.

Persons with disabilities generally were not subject to overt discrimination in employment, education, or provision of other state services; however, in practice they faced limited access to these services.

The law mandates that the government and private companies hire minimum proportions of persons with disabilities (including mental disabilities). Companies with more than 300 employees that do not comply must pay a fine of 50,000 yen (approximately \$425) per vacant position per month. Public employment of persons with disabilities exceeded the minimum, but according to MHLW statistics the private sector lagged despite increases over previous years. In a survey of private companies with more than 56 workers, 1.6 percent of their employees had disabilities.

Accessibility laws mandate that new construction projects for public use must include provisions for persons with disabilities. In addition, the government grants low-interest loans and tax benefits to operators of hospitals, theaters, hotels, and other public-use facilities if they upgrade or install features to accommodate persons with disabilities.

According to NGOs there were an estimated 20,000 homeless persons who could not receive old-age pensions, disability pensions, and livelihood protection allowances because they were considered to be without residence. NGOs reported that as a result, due to inadequate protection by the social safety net and the social stigma against homelessness, a significant number of elderly citizens and homeless individuals committed petty crimes to obtain the food and shelter provided by life in prison. Surveys showed that persons with mental disabilities may have accounted for up to 60 percent of the repeat-offender population in some prisons. Surveys also showed a significant percentage of repeat offenders were homeless persons who were not receiving social services.

According to NGOs and physicians, persons with mental illnesses also faced stigmatization and both educational and occupational barriers. Mental health professionals said that insufficient efforts were being made to reduce the stigma of mental illness and to inform the public that depression and other mental illnesses were treatable, biologically based illnesses.

National/Racial/Ethnic Minorities.—Burakumin (descendants of feudal era “outcasts”) and ethnic minorities experienced varying degrees of societal discrimination. The approximately three million burakumin, although not subject to governmental discrimination, frequently were victims of entrenched societal discrimination, including restricted access to housing, education, and employment opportunities. Discrimination persisted extensively, mostly outside the major metropolitan areas.

Despite legal safeguards against discrimination, the country's large populations of Korean, Chinese, Brazilian, and Filipino permanent residents—many of whom were born, raised, and educated in Japan—were subject to various forms of deeply entrenched societal discrimination, including restricted access to housing, education, and employment opportunities. There was a widespread perception among citizens that “foreigners,” often members of Japan-born ethnic minorities, were responsible for most of the crimes committed in the country. The media fostered this perception, although MOJ statistics showed that the rate of “foreigner”-committed crimes, excepting crimes such as illegal entry and overstay, was lower than the crime rate for citizens. Long-term foreign residents, including naturalized Japanese citizens, continued to report occasional instances of being targeted, particularly by the police. Independent observers reported that police asked foreigners to give urine samples on several occasions for no other reason than that they appeared to be foreign.

Many immigrants struggled to overcome obstacles to naturalization, including the broad discretion available to adjudicating officers and the great emphasis on Japanese-language ability. Aliens with five years of continuous residence are eligible for naturalization and citizenship rights. Naturalization procedures also require an extensive background check, which includes inquiries into the applicant's economic status and assimilation into society. The government defended its naturalization procedures as necessary to ensure the smooth assimilation of foreigners into society.

There were approximately 600,000 ethnic Koreans who were permanent residents or citizens. In general their acceptance by society was steadily improving. As a result there was a continuing increase in the number of ethnic Koreans applying for

and being granted citizenship (approximately 10,000 a year). Ethnic Koreans who chose not to naturalize faced difficulties in terms of civil and political rights.

Representatives of some ethnic schools continued to press the government to have their schools recognized as educational foundations and to accept the graduates of their high schools as qualified to take university and vocational school entrance exams. The Ministry of Education stated that the graduates of ethnic schools certified as being equivalent to a 12-year program could take the entrance exam.

The courts ruled against the decisions of authorities to reject the use of city halls and municipal facilities by North Korean-affiliated groups. Isolated acts of threats and violence against Koreans continued to be reported, especially after North Korean missile tests.

Indigenous People.—Although the Ainu enjoyed the same rights as all other citizens, when clearly identifiable as Ainu they faced discrimination. In June 2008 the Diet unanimously passed a resolution recognizing the Ainu as an indigenous people. In August the government opened the Ainu Affairs Comprehensive Policy Office, an interagency organization in charge of launching, steering, and promoting Ainu policies as a successor to the governmental advisory panel on Ainu issues. The Ainu law, enacted in 1997, emphasizes preservation of Ainu culture, but it lacks some provisions that a few Ainu groups have demanded, such as land claims, reserved seat(s) for Ainu in the Diet and local assemblies, and a government apology to the Ainu people.

The UN Human Rights Committee submitted a report to the government in October 2008 advising it to designate both the Ainu and the Ryukyumin (a term that includes residents of Okinawa and portions of Kagoshima Prefecture) as indigenous peoples and give assistance to protect and promote their culture and traditions. The government replied that regardless of whether the “Ryukyumin/Okinawans” are recognized as an indigenous people, it had made efforts to preserve and draw on Okinawan traditions and promote Okinawan culture in line with its plan for development and promotion in Okinawa.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—No laws criminalize homosexual practices or protect against discrimination on the basis of sexual orientation. However, NGOs that advocate for gay, lesbian, bisexual, and transgender persons noted that on some occasions such persons suffered from bullying, harassment, and violence.

Other Societal Violence or Discrimination.—There were no reports of societal violence or discrimination against persons with HIV/AIDS.

Many foreign university professors, especially women, complained of discrimination, noting that there were few tenured foreign professors. With few exceptions, the majority of universities, including national universities, hired foreign academics on short-term contracts without the possibility of tenure.

Section 7. Worker Rights

a. The Right of Association.—The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and the government effectively enforced the law. Unions were free of government control and influence; however, public service employees’ basic union rights, governed by a separate law, are restricted in ways that “effectively require prior authorization” to form unions. Approximately 18.1 percent of the total workforce was unionized.

Except for public sector workers and employees of state-owned enterprises, the law allows unions to conduct their activities without interference, and the government protected this right.

In general, unions in the private sector have the right to strike, and workers exercised this right in practice. However, workers in sectors providing essential services, including electric power generation and transmission, transportation and railways, telecommunications, medical care and public health, and postal service, must give 10 days’ advance notice to the authorities. Public sector employees do not have the right to strike, but such employees are able to participate in public employee organizations, which can negotiate collectively with their public employers on wages, hours, and other conditions of employment. They are not able to enter into collective bargaining agreements.

b. The Right to Organize and Bargain Collectively.—Collective bargaining is protected by law and was freely practiced. However, public employees and employees involved in providing essential services (approximately 5.5 percent of the total workforce of 66.5 million) are exempt from this right. Moreover, an increasing number of businesses were choosing to change their form of incorporation and moving to a holding company structure. Investment fund “companies,” which are not legally considered employers, also appeared to be playing a larger role. In addition to changes

in corporate structure, there were labor market changes affecting corporate activities. Approximately one third of workers were part-time or nonregular and difficult to organize for collective bargaining purposes. The result was that a significant proportion of the workforce did not enjoy the right to collective bargaining because they were in prohibited public employee or essential service jobs, worked for a form of company not legally considered an employer, or were in part-time jobs that made collective bargaining difficult.

There were no reports of antiunion discrimination or other forms of employer interference in union functions. The increased use of short-term contracts, often in violation of the Labor Standards Law, not only undermined regular employment but also frustrated organizing efforts. According to a 2008 official survey, 34.5 per cent of all employees were nonregular workers.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor; however, there were reports that such practices occurred. Most trafficking victims were foreign women who migrated to the country seeking work but were subjected to debt bondage and forced prostitution (see section 6). Workers who entered the country illegally or who overstayed their visas also were at risk for these practices, including nonpayment or underpayment of wages. Some companies forced foreign laborers in the trainee visa program to work illegal overtime, refused to pay them allowances, controlled their movement and travel documents, and forced them to deposit paychecks into company-controlled accounts. The law and MOJ guidelines prohibit these practices. In July the government passed an amendment to the Immigration Control and Refugee Recognition Act that grants full labor law protection to foreign trainees in the first year of their program following an initial three-month internship period. The Labor Standard Inspection Bodies monitored workplace compliance with the labor laws. Its normal response was to issue warnings and advisories; legal recourses normally were not pursued except in the most serious cases.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law bans the exploitation of children in the workplace, and the government effectively implemented the law. The MHLW is responsible for enforcement. By law children between the ages of 15 and 18 may perform any job that is not designated as dangerous or harmful. Children between the ages of 13 and 15 may perform “light labor” only, and children under 13 may work only in the entertainment industry. Other than victims of human trafficking and child pornography, child labor was not a problem.

e. Acceptable Conditions of Work.—Minimum wages are set on a prefectural and industry basis, with the input of tripartite (workers, employers, and public interest) advisory councils. Employers covered by a minimum wage must post the concerned minimum wages, and compliance with minimum wages was considered widespread. Minimum wage rates varied according to prefecture, from 618 yen (\$5.74) to 739 yen (\$6.54) per hour. The minimum daily wage provided a decent standard of living for a worker and family.

The law provides for a 40-hour workweek for most industries and mandates premium pay for hours worked above 40 in a week or eight in a day. However, it was widely accepted that workers, including those in government jobs, routinely exceeded the hours outlined in the law. Labor unions frequently criticized the government for failing to enforce maximum working hour regulations. According to the Ministry of Labor, between 2004 and the end of 2008, 1,608 applications were made by survivors seeking recognition of a deceased as a “karoshi” (death from overwork) victim. The ministry officially recognized 1,576 of these applications as karoshi victims.

According to the Japanese Trade Union Confederation, companies increasingly hired workers on a part-time, contract, or nonregular basis. Such workers made up one-third of the labor force and worked for lower wages, often with less job security and benefits than career workers and sometimes in precarious working conditions. Other groups argued that the labor system had been too rigid before regulations changed to allow this type of work. One of the ostensible goals of the Revised Part-Time Work Law, which came into force in April 2008, was to provide equality for part-time workers, the majority of whom are women, in terms of wages and training. However, to qualify, the part-time workers must have parity with full-time workers in terms of tasks, overtime, and transfers. In practice only 4 to 5 percent of part-time workers qualified under these terms.

Activist groups claimed that employers exploited illegal foreign workers, who often had little or no knowledge of the Japanese language or their legal rights. By law, students are allowed to work only 28 hours per week. However, foreign students, particularly self-sponsored students, in the country, the majority of whom

were Chinese, often held two or three low-wage jobs and as a result were moderately to severely sleep-deprived, with the concomitant greater risk of injury and illness.

NGOs and the media reported abuses of the “foreign trainee” program, a government-sponsored training program facilitated by the Japan International Training Cooperation Organization. In some companies trainees reportedly were forced to work unpaid overtime and received less than the minimum wage or even the legally required stipend level for their first “trainee” year. Moreover, their wages were automatically deposited in company-controlled accounts, despite the fact that “forced deposits” are illegal. According to NGOs, trainees sometimes had their travel documents taken from them and their movement controlled to “prevent escape.” In 2008 the Justice Ministry confirmed that 452 companies and other organizations that accepted foreign trainees were involved in illegal practices, of which an estimated 60 percent involved violations of labor-related laws, including unpaid wages and overtime allowances. However, there are no criminal penalties for companies found in violation of laws and regulation. Although Labor Standard Inspection Bodies identified more than 1,200 violations of labor laws in 2006 alone, there were only two convictions for labor trafficking during the past three years. NGOs and labor unions working with foreign workers noted no noticeable improvement in companies’ treatment of foreign workers. A survey conducted by the Japan International Training Cooperation Organization found that 34 trainees died in FY2008. Sixteen of them died of brain and heart diseases often caused by long working hours. Experts in karoshi said that there was a high possibility that they died from overwork.

The government sets occupational health and safety standards, and the Ministry of Labor effectively administered the various laws and regulations governing occupational health and safety. Labor inspectors have the authority to suspend unsafe operations immediately, and the law provides that workers may voice concerns over occupational safety and remove themselves from unsafe working conditions without jeopardizing their continued employment.

KIRIBATI

Kiribati is a constitutional multiparty republic with a population of approximately 92,500. The president exercises executive authority and is popularly elected for a four-year term. The legislative assembly nominates at least three, and no more than four, presidential candidates from among its members. Parliamentary and presidential elections held in 2007 were considered generally free and fair. Anote Tong of the Boutokaan Te Koaua party was reelected president. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse. Violence and discrimination against women, child abuse, and commercial sexual exploitation of children were problems.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution prohibits such practices, and there were no reports government officials employed them. Traditional village practice permits corporal punishment for criminal acts and other transgressions.ⁿ

Prison and Detention Center Conditions.—Prison conditions generally met international standards, and the government permitted visits by family members, church representatives, and diplomats. The government also permitted monitoring visits by independent human rights observers, but there were no such visits during the year.ⁿ

At year’s end the prison system held 85 inmates (84 men and one woman); approximately 3 percent of male inmates were juveniles (under age 18). There was no separate facility for juvenile offenders, but children under age 16 usually were not incarcerated. Juveniles ages 16 to 17 generally may be detained no longer than one month in the adult facility; however, for more serious offenses, such as murder, juveniles over age 16 can be held in custody for more than a month and can be sentenced to longer terms. Pretrial detainees accused of serious offenses who did not

meet bail were held with convicted prisoners. Persons charged with minor offenses normally were released on their own recognizance pending trial.

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

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

Arrest Procedures and Treatment While in Detention.—In some cases magistrates issued warrants before an arrest was made. Persons taken into custody without a warrant must be brought before a magistrate within 24 hours or within a reasonable amount of time when arrested in remote locations. These requirements were generally respected in practice. Many individuals were released on their own recognizance pending trial, and bail was granted routinely for many offenses. The law requires arrested individuals be informed of their rights, which include the right to legal counsel during questioning and the right not to incriminate themselves. Two police officers must be present at all times during questioning of detainees, who also are provided the option of writing and reviewing statements given to police. Detainees were allowed prompt access to legal counsel. Public defenders, known as “people’s lawyers,” were available free of charge for arrested persons and others who needed legal advice.

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice./n

Trial Procedures.—The constitution provides for the right to a fair public trial, and an independent judiciary generally enforced this right. There is no trial by jury. An accused person must be informed of the charges and be provided adequate time and facilities to prepare a defense. The law also provides for the right to confront witnesses, present evidence, and appeal convictions. Defendants facing serious criminal charges are entitled to free legal representation. Procedural safeguards are based on British common law and include the presumption of innocence until proven guilty. The law extends these rights to all citizens.

Extrajudicial traditional communal justice, in which village elders decide cases and mete out punishment, remained a part of village life, especially on remote outer islands. Nonetheless, the incidence of communal justice was declining under pressure from the codified national law.

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

Civil Judicial Procedures and Remedies.—There is an independent and impartial judiciary in civil matters, as well as access to a court to bring lawsuits seeking damages for, or cessation of, human rights violations.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of speech and of the press, and the government generally respected these rights in practice. Although there were no government restrictions, there were some concerns about the lack of local independent media./n

The government Broadcasting and Publications Authority (BPA) operated Radio Kiribati, the dominant news source in the country, and published a twice-weekly newspaper. A board of directors appointed by the government oversees BPA operations./n

A media company owned by a member of parliament affiliated with the governing party operated the country’s other radio station and published a weekly newspaper. Several other organizations, such as the Kiribati Protestant Church, also published weekly newspapers./n

International media were allowed to operate freely. The law requires newspapers to register with the government, but there were no reports the government denied registration to any publication./n

Internet Freedom.—There were no government restrictions on the Internet or reports the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in peaceful expression of views via the Internet, including by e-mail. While generally available and accessible on South Tarawa, public access to the Internet elsewhere in the country was limited by lack of infrastructure. The

International Telecommunication Union reported that approximately 2 percent of the country's inhabitants used the Internet in 2008./n

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

b. Freedom of Peaceful Assembly and Association.—The constitution provides for freedom of assembly and association, and the government generally respected these rights in practice./n

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

Societal Abuses and Discrimination.—There were isolated reports of societal discrimination against religious groups viewed as outside the mainstream; in a few cases, traditional village leaders have prevented such groups from proselytizing or holding meetings in their villages. There were no reports of anti-Semitic acts. There was no known Jewish community in the country.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf/.

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

The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. Although the law prohibits government restrictions on citizens' freedom of movement, it does not restrict such actions by traditional village councils./n

The occasion did not arise during the year for government cooperation with the Office of the UN High Commissioner for Refugees or other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern./n

The law provides for the forced expulsion from the country of a convicted person if "in the interests of" defense, public safety, order, morality, health, or environmental conservation. The government did not use forced exile. On rare occasions traditional village councils and the courts have banished persons from a specific island within the country, usually for a fixed period of time, but there were no reports of such banishments during the year./n

Protection of Refugees.—The country is not a party to the 1951 Convention relating to the Status of Refugees or its 1967 Protocol. Its laws do not provide for the granting of asylum or refugee status, and the government has not established a system for providing protection to refugees. During the year there were no applications for refugee resettlement, asylum, or protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

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

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

Elections and Political Participation.—The legislature has 45 members: 43 are elected by universal adult suffrage, the Rabi Island Council of I-Kiribati (persons of Kiribati ancestry) in Fiji selects one, and the attorney general is an ex officio member. The most recent parliamentary elections were held in August 2007. In October 2007 the legislature elected Anote Tong of the Boutokaan Te Koaua party to a second term as president. The elections were considered generally free and fair. There were no government restrictions on political opponents. Elected village councils run local governments in consultation with traditional village elders.

In July the traditional elders' association of Maiana Island demanded the island's elected mayor and council vacate office and a new council election be held. The council refused and took the matter to court; the High Court decided in favor of the council. However, subsequently the mayor's house was burned down, and the mayor and council members resigned in August.

There were two women in the 45-member legislature. Several permanent secretaries were women./n

The president and several members of the legislature were of mixed descent.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, but the government did not always implement the law effectively. Government officials have sometimes engaged in corrupt practices with impunity, but there were no specific reports of government corruption during the year.

Nepotism, based on tribal, church, and family ties, was prevalent. Public officials were not subject to financial disclosure laws. The auditor general is responsible for oversight of government expenditures. In reality the auditor general lacked sufficient resources, and findings of misappropriations and unaccounted for funds were generally ignored, or the investigations were inconclusive.

In March, together with Nauru and Tuvalu, the country signed a memorandum of understanding to establish a subregional audit support program, a new initiative of the Pacific Association of Supreme Audit Institutions, with the goal of enabling public accounts to be audited to uniformly high standards in a timely manner.

No specific law provides for citizen or media access to government information. In practice the government was fairly responsive to individual requests for information.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Domestic and international human rights groups generally operated without government restriction. Government officials were cooperative and responsive to their views.

The government cooperated with international governmental organizations and permitted visits by UN representatives and other organizations. There were visits from UN officials, including officials from the UN Children's Fund and the UN Development Program, during the year. In December a team from the Fiji-based Regional Resource Rights Team of the Secretariat of the South Pacific Community visited the country to consult with the government and nongovernmental organizations (NGOs) on legal reform to address violence against women./n

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination on the basis of race, national origin, or color, and the government observed these prohibitions in practice; however, only native I-Kiribati may own land./n

Women.—Spousal abuse and other forms of violence against women were significant problems. Alcohol abuse frequently was a factor in attacks on women. Rape, including spousal rape, is a crime, with a maximum penalty of life imprisonment, but sentences were typically much shorter.

A Kiribati Family Health and Safety Study prepared by the Secretariat of the Pacific Community estimated approximately 75 percent of the women surveyed had been victims of domestic violence at some time in their lives. The law does not address domestic violence specifically, but general common law and criminal law make assault in all forms illegal. The law provides for penalties of up to six months' imprisonment for common assault and up to five years' imprisonment for assault involving bodily harm. Prosecutions for rape and domestic assault were infrequent, largely due to cultural taboos on reporting such crimes and police attitudes encouraging reconciliation over prosecution./n

Prostitution is not illegal; however, procuring sex and managing brothels are illegal. The lack of a law against prostitution hindered the ability of the police to restrict these activities.

The law does not specifically prohibit sex tourism. There were reports of foreign fishermen engaging in commercial sexual acts with minors. Obscene or indecent behavior is banned.

The law does not prohibit sexual harassment, which sometimes occurred but generally was not regarded as a major problem.

Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children. Access to contraception, as well as obstetric and postnatal care, was available from public health hospitals and centers. Women and men also had equal access to diagnosis and treatment for sexually transmitted infections, including HIV./nThe law does not prohibit discrimination on the basis of gender, and the traditional culture, in which men are dominant, impeded a more active role for women in the economy. Women filled many government office and teaching positions. Statistics generally were not well collected in the country, and data on the participation of women in the work force and on comparative wages were unavailable. Women have rights of ownership and inheritance of property as well as full and equal access to education. However, land inheritance laws are patrilineal, and sons are entitled to more land than are daughters./nThe Citizen-

ship Act contains some discriminatory provisions. For example, the foreign wife of a male citizen acquires Kiribati citizenship automatically through the marriage; however, the foreign husband of a female citizen does not. A man who applies for Kiribati citizenship through naturalization may include his wife and children in his application; however, a woman may not include her husband and children in her application.^{/n}Children

Citizenship is derived by birth in the country, unless the child acquires the citizenship of another country at birth through a noncitizen parent. Citizenship is also derived through one's father.

Chronic alcohol abuse leading to child abuse (physical and occasionally sexual) and neglect continued to be a serious problem. There is a police unit specifically focused on child and family violence.

Crewmembers of foreign fishing vessels that stopped in Kiribati engaged in commercial sexual exploitation of women, some of whom were underage. Research conducted in South Tarawa indicated there were fewer than 20 girls under the age of 18 engaged in such prostitution. Some of the girls worked as prostitutes in bars frequented by crewmembers. Local I-Kiribati, sometimes including family members, acted as facilitators, delivering girls to the boats. The girls generally received cash, food, or goods in exchange for sexual services. The lack of a legal ban on prostitution, and the fact the legal age of consent is 15, hindered police efforts to stem the practice.^{/n}

The minimum age for consensual sex is 15. Sexual relations with a girl under age 13 carries a maximum penalty of life imprisonment, and sexual relations with a girl above age 12 but under age 15 carries a maximum penalty of five years' imprisonment. The victim's consent is not a permissible defense under either provision; however, in the latter case, reasonable belief the victim was 15 or older is a permissible defense.

The penal code has no specific provision concerning child pornography.

Trafficking in Persons.—The law prohibits trafficking in persons, and there were no reports persons were trafficked to, from, or through the country. There were incidences of commercial sexual exploitation of underage girls within the country.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip/.^{/n}

Persons With Disabilities.—The law does not specifically prohibit discrimination against persons with disabilities; however, there were no formal complaints of discrimination in employment, education, or the provision of other state services for persons with mental or physical disabilities. Accessibility of buildings for persons with disabilities has not been mandated, and there were no special accommodations for persons with disabilities. The central hospital on Tarawa had a wing for persons with mental disabilities, and there was a psychiatrist working on Tarawa.

There was no government agency specifically responsible for protecting the rights of persons with disabilities.^{/n}

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Sodomy and acts of "gross indecency between males" are illegal, with maximum penalties of seven and five years' imprisonment respectively, but there were no reports of prosecutions directed at lesbian, gay, bisexual, or transgender persons under these provisions. Societal discrimination and violence based on sexual orientation or gender identity were not significant problems.

Other Societal Violence or Discrimination.—Societal discrimination and violence against persons with HIV/AIDS were not significant problems. According to Ministry of Health statistics, 20 women and 32 men had AIDS or were HIV positive. A government-run HIV/AIDS taskforce coordinated outreach and educational activities concerning HIV/AIDS.^{/n}

Section 7. Worker Rights

a. The Right of Association.—The constitution provides for freedom of association, and workers are free to join and organize unions; workers exercised these rights in practice. The government did not control or restrict union activities; however, unions must register with the government.

More than 80 percent of the adult workforce was occupied in fishing or subsistence farming. An estimated 10 percent of wage-earning workers were union members. There were no official public-sector trade unions, but nurses and teachers belonged to voluntary employee associations similar to unions and constituted approximately 30 to 40 percent of total union and association membership.^{/n}

The law provides for the right to strike, but no strikes have taken place since 1980. There were no instances reported during the year in which the right to strike was denied.^{/n}

b. The Right to Organize and Bargain Collectively.—The law protects workers from employer interference in their right to organize and administer unions, and provides for collective bargaining. The government's Public Service Office sets wages in the large public sector. In a few statutory bodies and government-owned companies, however, employees could negotiate wages and other conditions. In the private sector, individual employees also could negotiate wages with employers. In keeping with tradition, negotiations generally were nonconfrontational. There were no reports of antiunion discrimination, and there were mechanisms to resolve any complaints that might arise./n

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The constitution prohibits forced or compulsory labor, and there were no reports that such practices occurred./n

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits the employment of children under age 14. Children through the age of 15 are prohibited from industrial employment and employment aboard ships. Officers from the Ministry of Labor and Human Resources Development generally enforced these laws effectively. Children rarely were employed outside the traditional economy.

Underage girls were solicited for commercial sex.

e. Acceptable Conditions of Work.—The wage-earning workforce consisted of approximately 8,000 persons, mostly employed on the main atoll of Tarawa, the political and commercial capital. The remainder of the working population worked within a subsistence economy. There is no official minimum wage, but the Labor Ministry estimated the "non-legislated" minimum to be between A\$1.60 and A\$1.70 (approximately \$1.45 and \$1.50) per hour. There is provision for a minimum wage at the discretion of the Labor Ministry, but it has never been implemented. The standard wage income provided a marginally decent standard of living for a worker and family.

There is no legislatively prescribed workweek. Workers in the public sector (80 percent of the wage-earning workforce) worked 36.25 hours per week, with overtime pay for additional hours.

Employment laws provide rudimentary health and safety standards for the workplace, which the Labor Ministry is responsible for enforcing. Employers are liable for the expenses of workers injured on the job, but a lack of qualified personnel hampered the government's ability to enforce employment laws, and no workplace inspections were conducted during the year. Workers do not have the right to remove themselves from hazardous work sites without risking loss of employment.

KOREA, DEMOCRATIC PEOPLE'S REPUBLIC OF

The Democratic People's Republic of Korea (DPRK or North Korea) is a dictatorship under the absolute rule of Kim Jong-il, general secretary of the Korean Workers' Party (KWP) and chairman of the National Defense Commission (NDC), the "highest office of state." The country has an estimated population of 23.5 million. Kim's father, the late Kim Il-sung, remains "eternal president." National elections held in March were not free or fair. There was no civilian control of the security forces, and members of the security forces committed numerous serious human rights abuses.

The government's human rights record remained deplorable, and the government continued to commit numerous serious abuses. Citizens did not have the right to change their government. The government subjected citizens to rigid controls over many aspects of their lives. There continued to be reports of extrajudicial killings, disappearances, arbitrary detention, arrests of political prisoners, harsh and life threatening prison conditions, and torture. There were reports that pregnant female prisoners underwent forced abortions in some cases, and in other cases babies were killed upon birth in prisons. The judiciary was not independent and did not provide fair trials. Citizens were denied freedom of speech, press, assembly, and association, and the government attempted to control all information. The government restricted freedom of religion, citizens' movement, and worker rights. There continued to be reports of severe punishment of some repatriated refugees. There were widespread reports of trafficking in women and girls among refugees and workers crossing the border into China.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary and Unlawful Deprivation of Life

There were numerous reports that the government committed arbitrary and unlawful killings. Defector and refugee reports indicated that in some instances the government executed political prisoners, opponents of the regime, repatriated defectors, and others accused of crimes with no judicial process. The law prescribes the death penalty for the most “serious” or “grave” cases of “antistate” or “antination” crimes, including: participation in a coup or plotting to overthrow the state; acts of terrorism for an antistate purpose; treason, which includes defection or handing over state secrets; suppressing the people’s movement for national liberation; cutting electric power lines or communication lines; and illegal drug transactions. An 2007 addendum to the penal code extended executions to include less serious crimes such as theft or destruction of military facilities or national assets, fraud, kidnapping, smuggling, and trafficking, Republic of Korea (ROK or South Korea) NGOs and think tanks reported.

In the past border guards reportedly had orders to shoot to kill potential defectors, and prison guards were under orders to shoot to kill those attempting to escape from political prison camps, but it was not possible to determine if this practice continued during the year. During the year the security forces announced that attempting to cross the border or aiding others in such an attempt was punishable by execution. Religious and human rights groups outside the country alleged that some North Koreans who had contact with foreigners across the Chinese border were imprisoned or killed.

Press and South Korean NGOs reported that public executions were on the rise, but no statistics were available to document the reported trend.

In February two officials from the Ministry of Electric Industry were reportedly executed for “shutting down the electricity supply” to the Sunjin Steel Mill in Kimchaek, North Hamkyung Province (see section 4).

In June the navy allegedly killed three persons fleeing to South Korea on a small boat (see section 2.d.).

Also in June an NGO reported four inmates and a guard at Yodok prison camp were killed following a gas explosion. The incident reportedly occurred while five workers were unloading drums of gasoline. Two of the prisoners reportedly died in the explosion, and guards shot and killed two others. The guard on night duty who survived the accident reportedly was sentenced to death.

An NGO reported that in June four soldiers beat and killed a security guard after he refused to give them the potatoes he was guarding. Security agents reportedly arrested the soldiers. There was no additional information available regarding the soldiers’ status at year’s end.

It was unknown whether the government prosecuted or otherwise disciplined members of the security forces for killings that occurred in 2008, including the July 2008 shooting by security forces that killed a visiting South Korean tourist who strayed outside the boundary of the Mt. Kumgang Tourism Park.

During the year the brother of Son Jong-nam reported he believed that in December 2008 officials executed Son Jong-nam, who was sentenced to death in 2006 for maintaining contacts with organizations outside the country.

b. Disappearance.—Reports indicated the government was responsible for disappearances. In recent years defectors claimed that state security officers often apprehended individuals suspected of political crimes and sent them, without trial, to political prison camps. There are no restrictions on the ability of the government to detain and imprison persons at will and to hold them incommunicado. The penal code states that a prosecutor’s approval is required to detain a suspect; however, the government ignored this law in practice.

There were no new developments in the 2008 reported disappearance of 22 North Koreans who were repatriated after floating into South Korean waters.

Japan continued to seek further information about the cases of 12 Japanese nationals whom the Japanese government designated as having been abducted by DPRK government entities. The DPRK did not announce any progress or results of an investigation it agreed to reopen after discussions with the Japanese government in 2008. Japan also hoped to gain answers regarding other cases of suspected abductions of Japanese nationals.

ROK government and media reports indicated that the DPRK government also kidnapped other nationals from locations abroad in the 1970s and 1980s. However, the DPRK government continued to deny its involvement in the kidnappings. The ROK government estimated that approximately 480 of its civilians, abducted or detained by DPRK authorities since the end of the Korean War, remained in the DPRK. The ROK government estimated 560 South Korean prisoners of war and soldiers missing in action also remained alive in North Korea.

In 2008 the media reported South Korean missionary Kim Dong-shik had most likely died within a year of his 2000 disappearance near the China-DPRK border.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The penal code prohibits torture or inhuman treatment; however, many sources continued to report these practices. Methods of torture and other abuse reportedly included severe beatings, electric shock, prolonged periods of exposure to the elements, humiliations such as public nakedness, confinement for up to several weeks in small “punishment cells” in which prisoners were unable to stand upright or lie down, being forced to kneel or sit immobilized for long periods, being hung by the wrists or forced to stand up and sit down to the point of collapse, and forcing mothers recently repatriated from China to watch the infanticide of their newborn infants. Defectors continued to report that many prisoners died from torture, disease, starvation, exposure to the elements, or a combination of these causes.

A 2008 Washington Post article on Shin Dong-hyuk, a defector born and confined in a political prison camp in Kaechon in South Pyongan Province for 22 years, stated that beatings and torture were common within the camp. Shin reported that he was tortured with hot coals while being hung from the ceiling after members of his family tried to escape from the camp.

The North Korean Human Rights Database Center’s 2009 White Paper on North Korean Human Rights indicated that officials have in some cases prohibited live births in prison and ordered forced abortions, particularly in detention centers holding women repatriated from China, according to first-hand refugee testimony. In some cases of live birth, the white paper reported that prison guards killed the infant or left it for dead. Guards also sexually abused female prisoners according to the white paper.

Defectors reported that reeducation through labor, primarily through sentences at forced labor camps, was a common punishment and consisted of tasks such as logging, mining, or tending crops under harsh conditions. Reeducation involved memorizing speeches by Kim Il-sung and Kim Jong-il.

Prison and Detention Center Conditions.—NGO, refugee, and press reports indicated that there were several types of prisons, detention centers, and camps, including forced labor camps and separate camps for political prisoners. Defectors claimed the camps covered areas as large as 200 square miles and contained mass graves, barracks, worksites, and other prison facilities. The Washington Post reported in July that numerous prison camps can be seen in satellite images and that the camps have been consolidated from 14 locations to five. An NGO reported six major prison camp complexes across the country.

Reports indicated that those sentenced to prison for nonpolitical crimes were typically sent to reeducation prisons where prisoners were subjected to intense forced labor. They stated that those who were considered hostile to the regime or who committed political crimes, such as defection, were sent to political prison camps indefinitely. Many prisoners in political prison camps were not expected to survive. The government continued to deny the existence of political prison camps.

Reports indicated that conditions in the political prison camps were harsh and that systematic and severe human rights abuses occurred throughout the prison and detention system. Detainees and prisoners consistently reported violence and torture. According to refugees, in some places of detention, prisoners received little or no food and were denied medical care. Sanitation was poor, and former labor camp inmates reported they had no changes of clothing during their incarceration and were rarely able to bathe or wash their clothing. An NGO reported that one reeducation center was so crowded that prisoners were forced to sleep on top of each other or sitting up. The same NGO reported that guards at a labor camp stole food brought for inmates by their family members.

The government did not permit inspection of prisons or detention camps by human rights monitors.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, but reports indicated that the government did not observe these prohibitions in practice.

Role of the Police and Security Apparatus.—The internal security apparatus includes the Ministry of Public Security (MPS) and the State Security Department (SSD). Corruption in the security forces was endemic. The security forces do not have adequate mechanisms to investigate possible security force abuses.

The country has an estimated 1.1 million active duty military personnel, in addition to a reserve force of approximately three million. The military conscripts citizens into military service at age 17, and they serve for four to 10 years.

The formal public security structure was augmented by a pervasive system of informers throughout the society. Surveillance of citizens, both physical and electronic, also was routine.

The MPS, responsible for internal security, social control, and basic police functions, is one of the most powerful organizations in the country and controlled an estimated 144,000 public security personnel. It maintains law and order; investigates common criminal cases; manages the prison system and traffic control; monitors citizens' political attitudes; conducts background investigations, census, and civil registrations; controls individual travel; manages the government's classified documents; protects government and party officials; and patrols government buildings and some government and party construction activities. Border Guards are the paramilitary force of the MPS and are primarily concerned with monitoring the border and with internal security.

In 2008 one South Korean NGO reported that the role of the police increased significantly. The increased responsibility reportedly caused tension between the police and the military.

Arrest Procedures and Treatment While in Detention.—Members of the security forces arrested and reportedly transported citizens suspected of committing political crimes to prison camps without trial. According to one South Korean NGO, beginning in 2008 the People's Safety Agency was authorized to handle directly criminal cases without approval of prosecutors. Previously, once police officers arrested suspects, the preadjudication department examined facts and evidence of the case and passed the case to prosecutors. It was not until the completion of prosecutors' investigation that the court made an official decision on the case. The change was made reportedly because of corruption among prosecutors.

There were no restrictions on the government's ability to detain and imprison persons at will or to hold them incommunicado. Family members and other concerned persons found it virtually impossible to obtain information on charges against detained persons or the lengths of their sentences. Judicial review of detentions did not exist in law or in practice.

In January the Sooseong Reeducation Center reportedly doubled the sentences of inmates near the end of their three- and four-year terms.

In March a ROK national was apprehended at the Kaesong Industrial Complex and detained for four months without being allowed to speak with ROK government officials.

e. Denial of Fair Public Trial.—The constitution states that courts are independent and that judicial proceedings are to be carried out in strict accordance with the law; however, an independent judiciary did not exist. The constitution mandates that the central court is accountable to the Supreme People's Assembly, and the criminal code subjects judges to criminal liability for handing down "unjust judgments."

Trial Procedures.—The MPS dispensed with trials in political cases and referred prisoners to the SSD for punishment. Little information was available on formal criminal justice procedures and practices, and outside access to the legal system was limited to show trials for traffic violations and other minor offenses.

The constitution contains elaborate procedural protections, providing that cases should be heard in public, except under circumstances stipulated by law. The constitution also states that the accused has the right to a defense, and when trials were held, the government reportedly assigned lawyers. Some reports noted a distinction between those accused of political, as opposed to nonpolitical, crimes and claimed that the government offered trials and lawyers only to the latter. There was no indication that independent, nongovernmental defense lawyers existed. According to a Washington Post report, most inmates at prison camps were sent there without a trial and without knowing the charges against them.

A paper published during the year reported that only 13 of 102 defectors who had been imprisoned said they received a trial.

Political Prisoners and Detainees.—While the total number of political prisoners and detainees remained unknown, a 2003 report by the U.S. Committee for Human Rights in North Korea, *The Hidden Gulag*, reported an estimated 150,000 to 200,000 persons were believed to be held in a type of political prison camps known as kwan li so. The government considered critics of the regime to be political criminals. Reports from past years described political offenses as including sitting on newspapers bearing Kim Il-sung's or Kim Jong-il's picture, mentioning Kim Il-sung's limited formal education, or defacing photographs of the Kims.

Civil Judicial Procedures and Remedies.—According to article 69 of the constitution, "[c]itizens are entitled to submit complaints and petitions. The state shall fairly investigate and deal with complaints and petitions as fixed by law." Under the Law on Complaint and Petition, citizens are entitled to submit complaints to stop encroachment upon their rights and interests or seek compensation for the en-

croached rights and interests. Reports indicated this right was not respected in practice.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution provides for the inviolability of person and residence and the privacy of correspondence; however, the government did not respect these provisions in practice. The regime subjected its citizens to rigid controls. The government relied upon a massive, multilevel system of informants to identify critics and potential troublemakers. Entire communities sometimes were subjected to security checks. Possessing “antistate” material and listening to foreign broadcasts were crimes that could subject the transgressor to harsh punishments, including up to five years of labor reeducation.

In October a South Korean NGO reported that after soldiers in South Pyongan Province found pamphlets with antigovernment messages, counterintelligence and security agents conducted an investigation of organizations and homes with computers in the region to determine the source.

The government monitored correspondence and telephone conversations. Private telephone lines operated on a system that precluded making or receiving international calls; international phone lines were available only under restricted circumstances. Foreign diplomats in Pyongyang stated that the local network was subdivided so telephone use remained a privilege.

During the year a broader range of citizens gained access to an internal mobile phone network with an estimated 120,000 users. The system was segregated from systems used by foreigners and could not be used for international calls. In the border regions with China, an unauthorized mobile phone network was reported to exist for use in making international calls. Those caught using cell phones illegally were arrested and required to pay a fine or face charges of espionage.

The government divided citizens into strict loyalty-based classes, which determined access to employment, higher education, place of residence, medical facilities, and certain stores.

Collective punishment was practiced. Entire families, including children, have been imprisoned when one member of the family was accused of a crime. For example, a decree on cutting electric power or communication lines and conducting illegal drug transactions states that a violator’s family shall be “expelled.”

In September an international NGO reported that a 76-year-old former security officer was executed for a crime during the Korean War. His two sons, three daughters, and five grandsons were sent to a political detention center.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of speech and of the press; however, the government prohibited the exercise of these rights in practice. There were numerous instances of persons being interrogated or arrested for saying anything that could be construed as negative towards the government.

The constitution provides for the right to petition. However, the government did not respect this right. For example, when anonymous petitions or complaints about state administration were submitted, the SSD and MPS sought to identify the authors, who could be subjected to investigation and punishment.

The government sought to control virtually all information. There were no independent media. The government carefully managed visits by foreigners, especially journalists.

During visits by foreign leaders, groups of foreign journalists were permitted to accompany official delegations and file reports. In all cases journalists were monitored strictly. Journalists generally were not allowed to talk to officials or to persons on the street. For all foreign visitors, including journalists, cell or satellite phones were held at the airport for the duration of the stay.

Domestic media censorship continued to be strictly enforced, and no deviation from the official government line was tolerated. The government prohibited listening to foreign media broadcasts except by the political elite, and violators were subject to severe punishment. Radios and television sets, unless altered, received only domestic programming; radios obtained from abroad had to be altered to operate in a similar manner. Elites and facilities for foreigners, such as hotels, could be granted permission to receive international television broadcasts via satellite. The government continued to attempt to jam all foreign radio broadcasts. The government condemned the activities of a defector-run broadcasting station in South Korea.

Internet Freedom.—Internet access for citizens was limited to high-ranking officials and other designated elites, including select university students. This access was granted via international telephone lines through a provider in China, as well as a local connection that was linked with a German server. An “intranet” was re-

portedly available to a slightly larger group of users, including an elite grade school; selected research institutions, universities, and factories; and a few individuals. The Korean Communication Corporation acted as the gatekeeper, downloading only acceptable information for access through the intranet. Reporters Without Borders reported that some e-mail access existed through this internal network. According to a press report, an increasing number of citizens had e-mail addresses on their business cards, although they were usually e-mail addresses shared among all the employees of an organization. In March Reporters Without Borders named the country an "Internet Enemy" due to its strict Internet restrictions.

Academic Freedom and Cultural Events.—The government restricted academic freedom and controlled artistic and academic works. A primary function of plays, movies, operas, children's performances, and books was to buttress the cult of personality surrounding Kim Il-sung and Kim Jong-il.

According to North Korean media, Kim Jong-il frequently told officials that ideological education must take precedence over academic education in the nation's schools. Indoctrination was carried out systematically through the mass media, schools, and worker and neighborhood associations. Indoctrination continued to involve mass marches, rallies, and staged performances, sometimes including hundreds of thousands of persons.

The government continued its attempt to limit foreign influences on its citizens. According to an NGO, the government warned children that imitating foreign songs and dances would result in detention in a discipline center. Listening to foreign radio and watching foreign films is illegal; however, numerous NGOs reported that Chinese and South Korean DVDs, VCDs, CDs, and videotapes continued to be smuggled into the country. The government intensified its focus on preventing the smuggling of imports of South Korean popular culture, especially television dramas. According to media and NGO reports, in an attempt to enforce the restriction on foreign films, police routinely cut electricity to apartment blocks and then raided every apartment to see what types of DVDs and videos were stuck in the players.

There were numerous examples of the government's crackdown on foreign DVDs. One South Korean NGO reported in March that four university students in Sinuiju were publicly criticized and expelled from school for watching foreign movies. The same NGO reported in April that two persons who sold South Korean dramas were put on public trial and sent to a reeducation center. The NGO reported a crackdown on illegal videos and CDs in South Pyongsung Province in September. Residents caught with any suspicious items were arrested, interrogated, and either sent to a reeducation center or a city discipline center.

One NGO reported that inspectors confiscated televisions, VCRs, and unregistered computers, holding them until a bribe was paid. Tetris was the only foreign computer game allowed in North Korea. However, according to an NGO, children of high-ranking officials could obtain and play foreign films and games on their computers.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The constitution provides for freedom of assembly; however, the government did not respect this provision in practice and continued to prohibit public meetings not previously authorized.

Freedom of Association.—The constitution provides for freedom of association; however, the government failed to respect this provision in practice. There were no known organizations other than those created by the government. Professional associations existed primarily to facilitate government monitoring and control over organization members.

c. Freedom of Religion.—The constitution provides for "freedom of religious belief"; however, reports indicated that in practice the government severely restricted religious freedom unless supervised by officially recognized groups linked to the government. The law also stipulates that religion "should not be used for purposes of dragging in foreign powers or endangering public security." Genuine religious freedom did not exist.

The personality cult of Kim Il-sung and Kim Jong-il continued to resemble a state religion that provided a spiritual underpinning for the regime. Refusal to accept the leader as the supreme authority was regarded as opposition to the national interest and continued to result in severe punishment.

The Korea Institute for National Unification's 2009 White Paper on Human Rights in North Korea concluded that the regime used authorized religious entities for external propaganda and political purposes and strictly barred local citizens from entering places of worship. For example, funds and goods that were donated to government-approved churches were channeled to the KWP by the government.

According to defector reports, the government reportedly was concerned that faith-based South Korean relief and refugee assistance efforts along the border with China had both humanitarian and political goals, including overthrow of the regime, and alleged that these groups were involved in intelligence gathering. In 2007 Asia News reported that the army published and distributed a pamphlet to soldiers warning them about the dangers of Christianity and urging vigilance against its spread within the armed forces.

There continued to be reports of underground Christian churches. The government repressed and persecuted unauthorized religious groups. Defectors reported that persons engaged in religious proselytizing, persons with ties to overseas religious groups, and repatriated persons who contacted foreigners while outside the country were arrested and subjected to harsh punishment. Defectors asserted that citizens who received help from foreign churches were considered political criminals and received harsher treatment, including imprisonment, prolonged detention without charge, torture, and execution. Former North Korean security agents who defected to South Korea reported intensified police activity aimed at halting religious activity at the border.

According to the Associated Press, authorities publicly executed a woman on June 16 for distributing the Bible and sent her husband and three children to a prison camp.

Religious and human rights groups outside the country continued to provide numerous unconfirmed reports that members of underground churches were beaten, arrested, detained in prison camps, tortured, or killed because of their religious beliefs.

Societal Abuses and Discrimination.—There was no information on societal violence, harassment, or discrimination against members of religious groups.

There was no known Jewish population, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The law provides for the “freedom to reside in or travel to any place”; however, the government did not respect this right in practice. During the year the government continued to attempt to control internal travel. The government did not cooperate with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons.

The government continued to restrict the freedom to move within the country. Only members of a very small elite class and those with access to remittances from overseas had access to personal vehicles, and movement was hampered by the absence of an effective transport network and by military and police checkpoints on main roads at the entry to and exit from every town. Use of personal vehicles at night and on Sundays was restricted. An NGO reported that in the provinces along the Chinese border, persons traveling without authorization papers were arrested and fined 100,000 won (approximately \$700). (Note: the government revalued its currency on November 30. Approximations in this report are based on the prerevalued rates.)

The government strictly controlled permission to reside in, or even to enter, Pyongyang, where food supplies, housing, health, and general living conditions were much better than in the rest of the country. Foreign officials visiting the country observed checkpoints on the highway leading into Pyongyang from the countryside.

The government also restricted foreign travel. The regime limited issuance of exit visas for foreign travel to officials and trusted businessmen, artists, athletes, academics, and religious figures. Short-term exit papers were available for some residents on the Chinese border to enable visits with relatives or to engage in small-scale trade.

It was not known whether the laws prohibit forced exile; the government reportedly forced the internal exile of some citizens. In the past the government engaged in forced internal resettlement of tens of thousands of persons from Pyongyang to the countryside. Sometimes this occurred as punishment for offenses, although there were reports that social engineering was also involved. For example, although disabled veterans were treated well, other persons with physical and mental disabilities, as well as those judged to be politically unreliable, were sent out of Pyongyang into internal exile.

The government did not allow emigration, and beginning in 2008 it tightened security on both sides of the border, which dramatically reduced the flow of persons

crossing into China without required permits. NGOs reported strict patrols and surveillance of residents of border areas and a crackdown on border guards who may have been aiding border crossers. According to an NGO, on February 10, a navy patrol boat captured a fishing boat that crossed into international waters; they arrested the captain and crew for attempting to flee to South Korea. Authorities reportedly beat one crewmember to death during a preliminary hearing. Six crewmembers were released, but five, including the captain, remained in custody.

Substantial numbers of citizens have crossed the border into China over the years, and NGO estimates of those who lived there during the year ranged from tens of thousands to hundreds of thousands. Some settled semipermanently in northeastern China, others traveled back and forth across the border, and others sought asylum and permanent resettlement in third countries. A few thousand citizens gained asylum in third countries during the year.

The law criminalizes defection and attempted defection, including the attempt to gain entry to a foreign diplomatic facility for the purpose of seeking political asylum. Individuals who cross the border with the purpose of defecting or seeking asylum in a third country are subject to a minimum of five years of "labor correction." An NGO reported that minors over age 14 found crossing the border were tried as adults. In "serious" cases defectors or asylum seekers are subject to indefinite terms of imprisonment and forced labor, confiscation of property, or death. Many would-be refugees who were returned involuntarily were imprisoned under harsh conditions. Some sources indicated that the harshest treatment was reserved for those who had extensive contact with foreigners.

In the past, reports from defectors indicated that the regime differentiated between persons who crossed the border in search of food (who might be sentenced only to a few months of forced labor or in some cases merely issued a warning) and persons who crossed repeatedly or for political purposes (who were sometimes sentenced to heavy punishments). The law stipulates a sentence of up to two years of "labor correction" for the crime of illegally crossing the border.

During the year the government reportedly continued to enforce the policy that all border crossers be sent to prison or reeducation centers.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 Convention relating to the Status of Refugees and its 1967 protocol, nor has the government established a system for providing protection for refugees. The government did not grant refugee status or asylum. The government had no known policy or provision for refugees or asylees and did not participate in international refugee fora.

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

Citizens do not have the right to change their government peacefully. The KWP and the Korean People's Army (KPA), with Kim Jong-il in control, dominated the political system. Little reliable information was available on intraregime politics. The legislature, the Supreme People's Assembly (SPA), meets only a few days per year to rubber-stamp resolutions and legislation presented by the party leadership.

The government justified its dictatorship with nationalism and demanded near deification of both Kim Jong-il and Kim Il-sung. All citizens remained subject to intensive political and ideological indoctrination, which was intended to ensure loyalty to the leadership and conformity to the state's ideology and authority.

Elections and Political Participation.—Elections of delegates to the SPA were held in March. The elections were neither free nor fair, and the outcome was virtually identical to prior elections. The government openly monitored voting, resulting in nearly 100 percent participation and 100 percent approval.

The government has created several "minority parties." Lacking grassroots organizations, they existed only as rosters of officials with token representation in the SPA. The government regularly criticized the concept of free elections and competition among political parties as an "artifact" of "capitalist decay."

Women constituted approximately 4.5 percent of the membership of the SPA as of the 2003 elections. Women constituted approximately 4.5 percent of the membership of the Central Committee of the KWP but held few key KWP leadership positions.

The country is racially and ethnically homogenous. Officially there are no minorities, and there was, therefore, no information on minority representation in the government.

Section 4. Official Corruption and Government Transparency

It was not known whether the law provides criminal penalties for official corruption, whether the government implemented any such laws effectively, or how often

officials engaged in corrupt practices with impunity. Corruption was reportedly widespread in all parts of the economy and society.

Reports of diversion of food to the military and government officials and bribery were indicative of corruption in the government and security forces. The government continued to deny any diversion of food, although it hinted that it was combating internal corruption.

An international NGO reported numerous examples of bribery at all levels of government. For example, applicants paid bribes of up to 500,000 won (approximately \$3,500) to secure a spot at a professional medical school. Health examiners accepted bribes to evaluate healthy persons as sick so they would be taken off worker attendance sheets.

A South Korean NGO reported that bribes were necessary to obtain a divorce. According to the report, 200,000 won (approximately \$1,400) was reported to secure a divorce trial within two months; it takes six months to one year to get a divorce with a smaller bribe.

A South Korean NGO reported that party leaders took advantage of their positions, using them to make money, and that party leaders were exempt from labor mobilization campaigns.

The same NGO also reported several attempts by the government to suppress corruption. It reported that public housing officials in at least five cities were dismissed from their jobs and sent to work camps for living in new or luxurious homes paid for with government funds. It reported that in February authorities publicly executed two senior electricity officials in Pyongsung for overcharging for electricity and diverting electricity from the military to businesses who were bribing them. A public conference was held in Sinuiju to showcase misconduct and bribery engaged in by prosecutors. These examples were illustrative, not exhaustive, and the approximate number of cases of corruption was unknown.

Foreign media reported that the government launched a formal corruption investigation in 2008 specifically targeting the National Economic Cooperation Federation and the North Korean People's Council for National Reconciliation. The federation reportedly accepted bribes to label Chinese-made goods as "Made in North Korea," allowing them to be exported to South Korea duty free. There were no new developments during the year.

It was not known whether public officials are subject to financial disclosure laws and whether a government agency is responsible for combating corruption. There are no known laws that provide for public access to government information.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There were no independent domestic organizations to monitor human rights conditions or to comment on the status of such rights. The government's North Korean Human Rights Committee denied the existence of any human rights violations in the country.

The government ignored requests for visits from international human rights experts and NGOs. The NGO community and numerous international experts continued to testify to the grave human rights situation in the country during the year. The government decried international statements about human rights abuses in the country as politically motivated and as interference in internal affairs. The government asserted that criticism of its human rights record was an attempt by some countries to cover up their own abuses and that such hypocrisy undermined human rights principles.

The government emphasized that it had ratified a number of UN human rights instruments but continued to refuse cooperation with UN representatives. The government continued to prevent the UN Special Rapporteur on the situation of human rights in the DPRK, Vitit Muntarbhorn, from visiting the country to carry out his mandate. The government continued to refuse to recognize the special rapporteur's mandate and rejected the offer of the Office of the High Commissioner on Human Rights to work with the government on human rights treaty implementation.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution grants equal rights to all citizens. However, the government has reportedly never granted its citizens most fundamental human rights in practice, and it continued pervasive discrimination on the basis of social status.

Women.—The government appeared to criminalize rape, but no information was available on details of the law and how effectively the law was enforced. Women in prison camps reportedly were subject to rape and forced abortions.

Violence against women has been reported as a significant problem both inside and outside the home.

According to press reports, prostitution is illegal; there was no available information on the prevalence of prostitution in the country. During the year South Korean NGOs reported that prostitution was on the rise. In August an NGO reported that authorities uncovered a prostitution ring in Hyeson, Yangang Province, which included teenage prostitutes. There continued to be reports of trafficking in women and young girls who had crossed into China.

Women who have left the country reported that although "sexual violation" was understood, "sexual harassment" is not defined in the DPRK. Despite the 1946 "Law on Equality of the Sexes," defectors reported that sexual harassment of women was generally accepted due to patriarchal traditions. Defectors reported that there was little recourse for women who have been harassed.

It was difficult to obtain accurate information regarding reproductive rights in the country. According to the country's initial report to the Convention on the Elimination of All Forms of Discrimination Against Women submitted in 2002, "family planning is mapped out by individual families in view of their actual circumstances and in compliance with laws, regulations, morality, and customs. Women have the decision of the spacing of children in view of their own wish, health condition, and the like. But usually the spacing of children is determined by the discussion between the wife and the husband."

The constitution states that "women hold equal social status and rights with men"; however, although women were represented proportionally in the labor force, few women reached high levels of the party or the government.

Children.—Citizenship is derived from one's parents (*jus sanguinis*) and in some cases birth within the country's territory (*jus soli*).

The state provides 11 years of free compulsory education for all children. However, reports indicated some children were denied educational opportunities and subjected to punishments and disadvantages as a result of the loyalty classification system and the principle of "collective retribution" for the transgressions of family members.

Foreign visitors and academic sources reported that from fifth grade children were subjected to several hours a week of mandatory military training and that all children had indoctrination in school.

The UN Committee on the Rights of the Child repeatedly has expressed concern over *de facto* discrimination against children with disabilities and the insufficient measures taken by the state to ensure these children had effective access to health, education, and social services.

It was not known whether boys and girls had equal access to state-provided medical care; access to health care was largely dependent upon loyalty to the government.

Information about societal or familial abuse of children remained unavailable. There were reports of trafficking in young girls among persons who had crossed into China.

Article 153 of the criminal law states that a man who has sexual intercourse with a girl under the age of 15 shall be "punished gravely."

On April 21, a South Korean NGO reported that authorities sentenced middle school students at Osanduk Middle School in Hoeryeong, North Hamgyong Province, to work on collective farms for life because the students refused to sign KPA enrollment petitions.

According to NGO reports, there was a large population of street children, many of them orphans, who were denied entrance to public schools. An NGO provided several reports of homeless children being rounded up from detention centers and welfare institutions and sent to work on collective farms or at construction sites. However, one report indicated that 63 of 80 children sent to work at Mount Baekdu escaped to resume their lives on the street.

Trafficking in Persons.—Article 7 of the 1946 Law on Equality of the Sexes forbids trafficking in women and states that licensed or unlicensed prostitution shall be forbidden and offenders shall be punished. It was unclear whether this law was used to prosecute traffickers. The laws reportedly used to prosecute traffickers sought to limit crossborder migration and often harmed trafficking victims. The government claimed crackdowns on "trafficking networks" were a result of its desire to control all activity within its borders, particularly illegal emigration, rather than to combat trafficking in persons. Trafficking in persons and trafficking of women and young girls into and within China continued to be widely reported. According to some estimates, more than 80 percent of North Koreans living outside the country were victims of human trafficking. The government reportedly continued to use forced labor as part of an established system of political repression.

Some North Korean women and girls who voluntarily crossed into China were picked up by trafficking rings and sold as brides to Chinese nationals or placed in forced labor. In other cases, North Korean women and girls were lured out of the country by the promise of food, jobs, and freedom, only to be forced into prostitution, marriage, or exploitive labor arrangements. A network of smugglers facilitated this trafficking. Many victims of trafficking, unable to speak Chinese, were held as virtual prisoners, and some were forced to work as prostitutes. Traffickers sometimes abused or physically scarred the victims to prevent them from escaping. Officials facilitated trafficking by accepting bribes to allow individuals to cross the border into China.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—A 2003 law mandates equal access for persons with disabilities to public services; however, implementing legislation has not been passed. Traditional social norms condone discrimination against persons with physical disabilities. Although veterans with disabilities were treated well, other persons with physical and mental disabilities have been reportedly sent out of Pyongyang into internal exile, quarantined within camps, and forcibly sterilized. According to a report released in 2006 by the World Association of Milal, an international disability NGO, persons with disabilities constituted approximately 3.4 percent of the population, more than 64 percent of whom lived in urban areas. The North Korean Federation for the Protection of the Disabled has endorsed this number. A foreign NGO reported that the North Korean Federation for the Protection of the Disabled allowed them to operate in North Korea. The NGO was allowed to provide support and training at an orthopedic hospital, a school for hearing-impaired children, a coal mine hospital, and a home for elderly persons with disabilities. It was not known whether the government restricted the right of persons with disabilities to vote or participate in civic affairs.

Social Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

There are no laws against homosexuality; however, no information was available on discrimination based on sexual orientation or gender identity.

Other Societal Violence or Discrimination.—No information was available regarding discrimination against persons with HIV/AIDS.

Section 7. Worker Rights

a. The Right of Association.—The constitution provides for freedom of association; however, this provision was not respected in practice. There were no known labor organizations other than those created by the government. The KWP purportedly represents the interests of all labor. There was a single labor organization, the General Federation of Trade Unions of Korea. Operating under this umbrella, unions functioned on a classic Stalinist model, with responsibility for mobilizing workers to support production goals and for providing health, education, cultural, and welfare facilities.

Unions do not have the right to strike. According to North Korean law, unlawful assembly can result in five years of correctional labor.

b. The Right to Organize and Bargain Collectively.—Workers do not have the right to organize or to bargain collectively. Factory and farm workers were organized into councils, which had an impact on management decisions. According to the International Trade Union Confederation, North Korean law does not contain penalties for employers who interfere in union functions, nor does it protect workers who might attempt to engage in union activities from employer retaliation.

There was one special economic zone (SEZ) in the Rajin-Sonbong area. The same labor laws that apply in the rest of the country apply in the Rajin-Sonbong SEZ, and workers in the SEZ were selected by the government.

Under a special law that created the Kaesong Industrial Complex (KIC), located close to the demilitarized zone between South Korea and North Korea, special regulations covering labor issues negotiated with South Korea were in effect for the management of labor in the area. Those regulations did not contain provisions that guarantee freedom of association or the right to bargain collectively.

According to South Korea's Ministry of Unification, a total of 117 South Korean firms were operational at the KIC as of December, and approximately 41,900 North Korean workers were employed at KIC as of November. South Korea's Ministry of Unification reported that the DPRK's Central Special Zone Development Guidance Bureau provided candidates for selection by South Korean companies. Under an inter-Korean agreement, North Korean workers at the KIC reportedly earned a monthly basic minimum wage of \$57.88 after social welfare deductions (according

to the KIC Labor Law, wages are set in U.S. dollars). Employing firms reported, however, that with overtime the average worker earned approximately \$85 per month before deductions. Due to a lack of transparency, it was difficult to determine what proportion of their earned wages workers ultimately took home. Although the special laws governing the KIC require direct payment to the workers, the wages were in fact paid to the North Korean government, which withheld a portion for social insurance and other benefits and then remitted the balance (reportedly about 70 percent) to the workers in an unknown combination of “commodity supply cards,” which could be exchanged for staple goods, and North Korean won, converted at the official exchange rate.

Workers at the KIC do not have the right to choose employers. In December 2008 the government restricted border crossings and South Koreans’ access to the KIC, protesting what it called the “hostile policies” of the South Korean government. On May 15, North Korea threatened to end operations at Kaesong and cancel all KIC-related inter-Korean agreements. In June North Korea demanded that wages for its workers at Kaesong be increased to \$300 per month, with annual increases of 10 to 12 percent. These demands were addressed by the South Korean government with an increase of 5 percent and an agreement to construct a children’s nursery. On September 1, North Korea restarted regular border crossings. As of September 11, North Korea abandoned its demands for significant wage increases in 2009.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor. However, the government mobilized the population for construction and other labor projects, including on Sundays, the one day off a week. The penal code criminalizes forced child labor; however, there were reports that such practices occurred (see section 7.d.). The government also frequently gathered large groups together for mass demonstrations and performances. “Reformatory labor” and “reeducation through labor,” including of children, have traditionally been common punishments for political offenses. Forced and compulsory labor, such as logging and tending crops, continued to be the common fate of political prisoners.

The penal code requires that all citizens of working age must work and “strictly observe labor discipline and working hours.” There were numerous reports that farms and factories did not pay wages or provide food to their workers. According to reports from one NGO, during the implementation of short-term economic plans, factories and farms increased workers’ hours and asked workers for contributions of grain and money to purchase supplies for renovations and repairs. According to the penal code, failure to meet economic plan goals can result in two years of “labor correction.”

From April to September, numerous reports indicated that the government initiated a “150-day battle” labor-mobilization campaign to boost the economy by increasing work hours and production goals. The 150-day battle campaign exhorted workers to work harder to resolve food shortages and to rebuild infrastructure. The labor drive was part of the country’s larger goal of building a “great, prosperous, and powerful” nation by 2012, the birth centennial of Kim Il Sung. Immediately after the 150-day battle the country engaged in a second labor-mobilization campaign, the “100-Day battle,” to further increase output.

A South Korean NGO reported that a decision made by the city party in Hoeryung, North Hamgyong Province, to punish absent workers prompted factories to send every worker who was illegally absent for 15 to 20 days during the 150-day battle campaign to the municipal reeducation center. The same NGO reported that youth and housewives in North Hamgyong Province were forced to participate in the 150-day battle without compensation.

d. Prohibition of Child Labor and Minimum Age for Employment.—According to the law, the state prohibits work by children under the age of 16 years.

School children sometimes were sent to work in factories or in the fields for short periods to assist in completing special projects, such as snow removal on major roads, or in meeting production goals. Children were forced also to participate in cultural activities and, according to academic reports, were subjected to harsh conditions during mandatory training sessions. According to a South Korean press report, the government required high school and college students to participate in unpaid “voluntary work,” particularly rice-planting efforts, during their vacation periods. According to a South Korean NGO, in April students were forced to graduate early and join the military. An international NGO reported that students at a middle school in Soonchan, South Pyongan Province, were forced to work as night security guards in the unheated building after new electronic devices were stolen from the school.

e. Acceptable Conditions of Work.—No reliable data was available on the minimum wage in state-owned industries. However, anecdotal reports indicated that the

average daily wage was not sufficient to provide a decent standard of living for a worker and family. Since the 2002 economic reforms, compensation underwent significant change, as citizens sought to earn hard currency to support themselves and their families. Workers often had to pay for services, such as housing rental and transportation, that previously had been provided either free or at highly subsidized rates by the state. While education and medical care technically remained free, educational materials and medicines appeared available only for purchase in markets. Foreign observers who visited the country reported that many factory workers regularly failed to go to work, paying a bribe to managers to list them as present, so they could engage in various trading and entrepreneurial activities instead. The same source stated that many government factories were not operating, primarily due to electricity shortages.

Class background and family connections could be as important as professional competence in deciding who received particular jobs, and foreign companies that have established joint ventures continued to report that all their employees must be hired from registers screened by the government.

The constitution stipulates an eight-hour workday; however, some sources reported that laborers worked longer hours, perhaps including additional time for mandatory study of the writings of Kim Il-sung and Kim Jong-il. The constitution provides all citizens with a "right to rest," including paid leave, holidays, and access to sanitariums and rest homes funded at public expense; however, the state's willingness and ability to provide these services was unknown. Foreign diplomats reported that workers had 15 days of paid leave plus paid national holidays. Some persons were required to take part in mass events on holidays, which sometimes required advance practice during work time. Workers were often required to "celebrate" at least some part of public holidays with their work units and were able to spend a whole day with their families only if the holiday lasted two days.

Many worksites were hazardous, and the industrial accident rate was high. The law recognizes the state's responsibility for providing modern and hygienic working conditions. The penal code criminalizes the failure to heed "labor safety orders" pertaining to worker safety and workplace conditions only if it results in the loss of lives or other "grave loss." In addition workers do not have an enumerated right to remove themselves from hazardous working conditions.

Citizens suffered human rights abuses and labored under harsh conditions while working abroad for North Korean firms and under arrangements between the government and foreign firms. Contract laborers worked in Africa; Central and Eastern Europe (most notably in Russia); Central, East, and Southeast Asia; and the Middle East. In most cases employing firms paid salaries to the North Korean government, and it was not known how much of that salary the workers received. Workers were typically watched closely by government officials while overseas and reportedly did not have freedom of movement outside their living and working quarters.

Wages of some of the several thousand North Koreans employed in Russia reportedly were withheld until the laborers returned home, making them vulnerable to deception by North Korean authorities, who promised relatively high payments.

KOREA, REPUBLIC OF

The Republic of Korea (Korea or ROK) is a constitutional democracy governed by President Lee Myung-bak and a unicameral legislature. The country has a population of approximately 48 million. In April 2008 the Grand National Party obtained a majority of National Assembly seats in a free and fair election. Civilian authorities maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in some areas. Women, persons with disabilities, and minorities continued to face societal discrimination. Rape, domestic violence, and child abuse remained serious problems.

RESPECT FOR HUMAN RIGHTS

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

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

Official figures indicated that hazing was a factor in many of the 356 suicides by military personnel since 2004.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits mistreatment of suspects, and officials generally observed this prohibition in practice.

Prison and Detention Center Conditions.—Prison and detention center conditions generally met international standards. The government permitted monitoring visits by independent human rights observers, and such visits occurred during the year.

In December 2008 the government passed the Act on Sentence Execution and Treatment of Detainees, a new petition system that better accommodates detainees who want to formally accuse prison officials of abuse. The system provides detainees easier access to petition procedures and assists with the petition process, whereas before, petitioners had to submit their grievances directly to the Ministry of Justice (MOJ) with limited support mechanisms. As of October, 449 such petitions were submitted to the MOJ's Human Rights Violations Center. Of those petitions, 166 were dismissed, 226 were referred to other government offices, 31 were rejected, 23 had no action taken, and 53 were pending a decision. As of October there were 297 petitions alleging human rights violations by detention facility officials. Of those cases, 107 were withdrawn, 115 were rejected, and the remaining 75 were under investigation.

The MOJ reported the total of number of prisoners as of December was 48,228. Of that total, 2,603 were female and 472 were juveniles.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions. However, the National Security Law (NSL) grants the authorities powers to detain, arrest, and imprison persons who commit acts the government views as intended to endanger the "security of the state." Nongovernmental organizations (NGOs) continued to call for reform or abolishment of the law, contending that its provisions did not define prohibited activity clearly. The MOJ maintained that the courts had established legal precedents for strict interpretation of the law that preclude arbitrary application. The number of NSL investigations and arrests has dropped significantly in recent years.

During the year 34 persons were prosecuted for violating the NSL; of those, 14 were convicted and 20 were awaiting trial. In 2008, 27 persons were prosecuted for alleged NSL violations. Of those, seven were found guilty—two were serving prison sentences, and five received suspended sentences and were on probation. The remaining 20 cases were pending at year's end.

The secondary school teacher indicted in August 2008 for violating the NSL by distributing banned material remained free on bail while awaiting trial. During the year the MOJ reported dropping the portion of the case related to the 1980 Kwangju uprising.

Four members of an NGO detained and charged in September 2008 with illegal contact with Democratic People's Republic of Korea (DPRK or North Korea) agents and distribution of North Korean press material for the purpose of exalting DPRK leader Kim Jong-il were convicted during the year. Two of the members were serving prison sentences, and two members were given suspended sentences and probation. The NGO members appealed the sentences and filed a defamation claim against the government.

A university professor found guilty of violating the NSL in 2007 and sentenced to two years in jail had his sentence reduced to three years of probation. He appealed the conviction; the case was pending before the Supreme Court.

Role of the Police and Security Apparatus.—Civilian authorities maintained effective control over the Korean National Police Agency (KNPA), and the government has effective mechanisms to investigate and punish abuse and corruption.

On November 24, Amnesty International's secretary general called on the government to put in place mechanisms to improve and monitor policing. She highlighted the need for better police procedures for responding to public protests and arresting/detaining migrant workers.

Local NGOs continued to assert that while hundreds of civilians were convicted of violating the Assembly and Demonstration Act, no riot police were prosecuted for allegedly abusing peaceful protesters.

Arrest Procedures and Treatment While in Detention.—The law requires warrants in cases of arrest, detention, seizure, or search, except if a person is apprehended while committing a criminal act or if a judge is not available and the authorities believe that a suspect may destroy evidence or escape capture if not arrested quickly. In such cases a public prosecutor or police officer must prepare an affidavit of emergency arrest immediately upon apprehension of the suspect. Police may not interrogate for more than six hours persons who voluntarily submit to questioning at police stations. Authorities must release an arrested suspect within 20 days unless

an indictment is issued. An additional 10 days of detention is allowed in exceptional circumstances.

There is a bail system, but human rights lawyers stated that bail generally was not granted for detainees who were charged with committing serious offenses, might attempt to flee or harm a victim, or had no fixed address.

The law provides for the right to representation by an attorney, including during police interrogation. There are no restrictions on access to a lawyer, but authorities can limit a lawyer's participation in an interrogation if the lawyer obstructs the interrogation or divulges information that impedes an investigation. The courts generally observed a defendant's right to a lawyer. During both detention and arrest periods, an indigent detainee may request that the government provide a lawyer.

Access to family members during detention varied according to the severity of the crime being investigated. There were no reports of access to legal counsel being denied.

Amnesty.—According to the MOJ, the government granted a special amnesty in August to approximately 1.5 million persons. Nearly all of the pardons were related to driver's license restrictions.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected judicial independence in practice.

Trial Procedures.—The law provides defendants with a number of rights in criminal trials, including the presumption of innocence, protection against self-incrimination, the right to a speedy trial, the right of appeal, and freedom from retroactive laws and double jeopardy. Trials are open to the public, but judges may restrict attendance if they believe spectators might disrupt the proceedings. There is a public jury system, but jury verdicts are not legally binding. Court-appointed lawyers are provided by the government (at government expense) in cases where defendants cannot afford to provide their own legal counsel. When a person is detained, the initial trial must be completed within six months of arrest. Judges generally allowed considerable scope for the examination of witnesses by both the prosecution and the defense. Defendants have the right to be present and to consult with an attorney. They can confront or question witnesses against them, and they can present witnesses and evidence on their behalf. Defendants have access to government-held evidence relevant to their cases. The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right.

Political Prisoners and Detainees.—The MOJ stated that no persons were incarcerated solely because of their political beliefs. The NGO Mingahyup claimed that as of August, the government had imprisoned 129 persons for their political beliefs.

In April a riot police conscript was sentenced to two years in prison for refusing to return to duty. He had ignored orders from his superiors to use violence against protesters during the 2008 beef protests.

The country requires military service for all men, although mandatory service periods vary: 24 months for the army, 26 months for the navy, and 27 months for the air force. The law does not protect conscientious objectors, who can receive a maximum three-year prison sentence. The MOJ has noted that the law does not distinguish conscientious objectors from others who do not report for mandatory military service. The MOJ reported that there were 5,136 cases of Military Service Act violations, with 750 cases referred for trial and 2,123 cases settled out of court.

Watchtower International, a Jehovah's Witness organization that is actively engaged in lobbying the government on this issue, reported that as of April 1, there were 465 Jehovah's Witnesses and a handful of others serving an average of 14 months in prison for conscientious objection to military service.

During the year the Ministry of National Defense (MND) announced that it would not pursue the introduction of alternative service for conscientious objectors. The ministry cited a lack of public support as the primary reason for its decision; an MND-sponsored poll found that 68 percent of the respondents opposed instituting alternative service, but an independent poll taken about the same time found that only 39 percent were opposed. Meanwhile, the Jehovah's Witnesses reported that courts increasingly were sympathetic to conscientious objectors. In September 2008 a district court asked the Constitutional Court to review again the constitutionality of the Conscription Law. The request remained pending approval. The court ruled in 2002 and 2004 that the law is constitutional.

Civil Judicial Procedures and Remedies.—There is an independent and impartial judiciary in civil matters, and there were no problems enforcing domestic court orders. Citizens had access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice. Some human rights groups raised concerns about possible government wiretapping abuse. The law establishes conditions under which the government may monitor telephone calls, mail, and other forms of communication for up to two months in criminal investigations and four months in national security cases. According to a National Assembly audit, the number of wiretappings increased from 608 in 2008 to more than 799 as of July.

The government continued to require some released prisoners to report regularly to the police in accordance with the Security Surveillance Act.

The NSL forbids citizens from listening to North Korean radio in their homes or reading books published in the DPRK if the government determines that the action endangers national security or the basic order of democracy in the country. However, this prohibition was rarely enforced, and viewing DPRK satellite telecasts in private homes is legal.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press. The independent media were active and expressed a wide variety of views generally without restriction. However, under the NSL the government may limit the expression of ideas that praise or incite the activities of antistate individuals or groups.

In September Reporters without Borders reported that four producers and one writer from the Munwha Broadcasting Corporation's PD Notebook program were arrested and charged with spreading false rumors about the alleged health risks of eating U.S. beef. The trial was ongoing at year's end.

Internet Freedom.—The government blocked violent, sexually explicit, and gambling-oriented Web sites and required site operators to rate their site as harmful or not harmful to youth, based on telecommunications laws that ban Internet service providers from offering information considered harmful to youth. The government also continued to block DPRK Web sites.

The law requires identity verification in order to post messages to Web sites with more than 300,000 visitors per day.

According to 2008 Organization for Economic Cooperation and Development data, 95 percent of households had access to the Internet through broadband connections. The International Telecommunication Union reported that 76 percent of inhabitants used the Internet in 2008. In addition to Internet access from home, public Internet rooms were widely available and inexpensive.

NGOs from the Korean Network for International Human Rights and the Korea Press Consumerism Organization stated there was a significant increase in the enforcement of regulations on online speech, including criminal punishment for false communication, defamation, and other violations for online writers, particularly related to the 2008 protests against U.S. beef imports.

In January the blogger "Minerva" was arrested on charges of adversely affecting foreign exchange markets and "undermining the nation's credibility" by posting false information on a blog. "Minerva" was acquitted in April. The National Human Rights Commission (NHRC) asked the government to review the constitutionality of the law used to arrest the blogger.

The MOJ confirmed that the government convicted 15 online bloggers for interfering with local business after encouraging users to boycott the country's top newspapers and that more cases were awaiting trial at year's end. All postings related to the boycott were deleted.

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

The law bans education workers from engaging in certain political activities. Offenders can serve up to one year in jail and be fined a maximum of 3.6 million won (approximately \$3,000).

The Ministry of Education, Science, and Technology prosecuted 96 teachers and 14 government employees from Gyeonggi Province for signing antigovernment petitions and unionizing. In December the head of education for the province was prosecuted for a breach of duty after attempting to postpone the punitive measures brought against the teachers. During the year one of the officials was convicted; the other trials were pending.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The law provides for freedom of assembly, and the government generally respected this

right in practice. The law prohibits assemblies that are considered likely to undermine public order and requires police to be notified in advance of demonstrations of all types, including political rallies. The police must notify organizers if they consider an event impermissible under this law; however, police routinely approved demonstrations. The police reportedly banned some protests by groups that had not properly registered or that had been responsible for violent protests in the past. NGOs reported that police continued to use excessive force in responding to protests.

In January five squatters and one policeman were killed in a building fire in the Yongsan commercial zone. Local media and NGOs alleged that a police SWAT team used excessive force and neglected to take proper safety precautions while trying to remove 40 protesting squatters from the building.

The MOJ confirmed that none of the 24 riot police accused of excessive violence during the 2008 beef protests were arrested; 16 cases remained under investigation.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice. Associations operated freely, except those seeking to overthrow the government.

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

Societal Abuses and Discrimination.—There is a small Jewish population that consists almost entirely of expatriates. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—Most citizens could move freely throughout the country; however, government officials restricted the movement of certain DPRK defectors by denying them passports. In many cases travelers going to the DPRK must receive a briefing from the Ministry of Unification prior to departure. They must also demonstrate that their trip does not have a political purpose and is not undertaken to praise the DPRK or criticize the ROK government. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

In September NGO leaders reported that Dolksun Isa, secretary general of the World Uighur Congress, was detained at Incheon airport for 42 hours, allegedly at China's request. Although he was later released and safely returned home, the government prohibited Isa from entering the country and attending an NGO conference in Seoul, as he had initially planned. MOJ officials emphasized that Isa was denied entry under the immigration law, not for political reasons.

The law does not include provisions for forced exile of its citizens, and the government did not employ it.

Protection of Refugees.—The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 protocol. Its law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The government routinely did not grant refugee status or asylum. In practice the government generally provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

Government guidelines provide for offering temporary refugee status in the case of a mass influx of asylum seekers and an alternative form of protection—a renewable, short-term permit—to those who meet a broader definition of “refugee.” During the year the government recognized 22 asylum applicants as refugees, dismissed 203 cases, and rejected 994 applicants. A complex procedure and long delays in refugee status decision making continued to be problems. At year's end approximately 523 applications were pending decisions. Asylum seekers who were recognized as refugees received basic documentation but frequently encountered problems in exercising their rights. Like other foreigners, refugees frequently were subjected to various forms of informal discrimination.

In May local NGOs reported that a female Muslim refugee applicant requested to be interviewed by a female asylum officer but was told that the male officer who interviewed her husband also had to interview her. After she and her husband refused due to their religious beliefs, she was asked to sign a form stating that she did not want an interview, thus relinquishing her right to apply for refugee status.

Local NGOs reported that asylum seekers often faced challenges accessing legal assistance because of language barriers. In addition, immigration detention is not subject to judicial review, often leading to arbitrary and prolonged detention. For

example, at year's end an Iranian national whose appeal was rejected by the Supreme Court had been in detention for almost four years.

The government continued its longstanding policy of accepting refugees from the DPRK, who are entitled to ROK citizenship. The government resettled 2,952 North Korean refugees during the year.

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

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage for all citizens 19 years of age or older.

Elections and Political Participation.—National Assembly elections held in April 2008 were free and fair.

Both the majority and the various minority political parties operated without restriction or outside interference.

In general elections, 50 percent of each party's candidates on the proportional ballot must be women, and 30 percent of each party's geographical candidates are recommended to be women. There were 41 women in the 299-seat National Assembly, with three of 16 National Assembly committees chaired by women. Two of 13 Supreme Court justices and two of 15 cabinet ministers were women.

There were no minorities in the National Assembly.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. The Korea Independent Commission Against Corruption stated that the overall "cleanliness level" of the government for 2008 was 8.17 out of 10 points, a slight decrease from 8.89 in 2007. There were reports of officials receiving bribes and violating election laws. According to the MOJ, 4,067 government officials were prosecuted for abuse of authority, bribery, embezzlement or misappropriation, and falsification of official documents. The National Assembly reported that out of the 250 lawmakers facing indictment, 15 lawmakers were prosecuted for corruption and 12 were awaiting trial.

By law public servants above a certain rank must register their assets, including how they were accumulated, thereby making their holdings public. Among the anticorruption agencies are the Board of Audit and Inspection and the Public Servants Ethics Committee. In February 2008 the Korea Independent Commission Against Corruption, Ombudsman of Korea, and Administrative Appeals Commission were integrated to form the Anti-Corruption and Civil Rights Commission.

The country has a Freedom of Information Act; in practice the government granted access for citizens and noncitizens alike, including foreign media.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views. The government also was cooperative with international organizations. For example, UN Under-Secretary General for Economic and Social Affairs Sha Zukang visited in September, and UN Special Rapporteur for Freedom of Opinion and Expression Frank La Rue visited in October. In addition Amnesty International Secretary General Irene Khan visited in November.

The NHRC is an independent government body established to protect and promote human rights; however, it has no enforcement powers and its decisions are not binding. The NHRC investigates complaints, issues policy recommendations, and conducts education campaigns. The NHRC largely has enjoyed the government's cooperation, received adequate resources, and was considered effective.

The Truth and Reconciliation Commission (TRC) continued to investigate incidents of possible abuse during the anti-Japanese independence movement, the Korean War, and during the country's former military regimes. As of September the TRC had confirmed 4,387 cases of human rights abuses, 50 incidents of mass killings and located 168 mass graves during its investigation process. Local NGOs expressed concern that the government may not extend the TRC's mandate, which expires in April 2010. On November 26, the TRC claimed that ROK security forces rounded up and executed at least 4,934 individuals suspected of being Communists between June and September 1950, during the opening weeks of the Korean War. The TRC recommended that the government offer an official apology and enact legislation to provide compensation for the alleged killings.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law forbids discrimination on the basis of gender, religion, disability, social status, and race, and the government generally respected these provisions. However, traditional attitudes limited opportunities for women, persons with disabilities, and ethnic minorities. While courts have jurisdiction to decide discrimination claims, many of these cases instead were handled by the NHRC. During the year, 1,115 such cases were brought before the commission.

Women.—Rape remained a serious problem. Although there is no specific statute that defines spousal rape as illegal, the courts have established a precedent by prosecuting spouses in such cases. The MOJ stated that there were 8,746 reports of rape or sexual violence during the year. Of these cases, 3,858 were prosecuted during the year. The penalty for rape is at least three years in prison; if a weapon is used or two or more persons commit the rape, punishment ranges from a minimum of five years to life imprisonment.

Violence against women remained a problem. During the year the MOJ registered 12,132 cases of domestic violence, and 1,262 persons were prosecuted, while 4,579 were filed as family protection cases and 6,215 were not charged. According to a Ministry of Gender and Equality (MOGE) survey, approximately 40 percent of all married women were victims of domestic violence. The law defines domestic violence as a serious crime and enables authorities to order offenders to stay away from victims for up to six months. Offenders can be sentenced to a maximum five years in prison and fined up to seven million won (approximately \$5,985). Offenders also may be placed on probation or ordered to see court-designated counselors. The law also requires police to respond immediately to reports of domestic violence, and they generally were responsive.

Prostitution is illegal but widespread. The police continued to crack down on alleged prostitution-related establishments. The government allows for the prosecution of citizens who pay for sex or commit acts of child sexual exploitation in other countries. The Act on the Prevention of the Sex Trade and Protection of Victims Thereof, which entered into effect in September 2008, further stipulates that the MOGE complete a report every three years on the status of domestic prostitution in addition to the involvement of citizens in sex tourism and the sex trade abroad. NGOs continued to express concern that sex tourism to China and Southeast Asia was becoming more prevalent.

The law obligates companies and organizations to take preventive measures against sexual harassment, but it continued to be a problem. The NHRC received 165 cases of alleged sexual harassment during the year. According to the NHRC, remedies included issuance of a recommendation for redress, conciliation, mutual settlement, and resolution during investigation. The NHRC lacks the authority to impose punitive measures, which must be pursued through the court system.

The law allows couples and individuals to decide freely the number, spacing, and timing of their children. The Ministry of Gender and Equality reported that there was a strong reluctance to have children due to the high cost of childrearing and the challenges of balancing work-life commitments. Under the Standard Act on Low Birth and Aging Society passed in 2005, the government established various policies to encourage persons to have children, such as medical subsidies for pregnant women, maternity leave for a maximum of one year, and profamily workplace programs.

The law permits a woman to head a household, recognizes a wife's right to a portion of a couple's property, and allows a woman to maintain contact with her children after a divorce. The law also allows remarried women to change their children's family name to their new husband's name. Women enjoy the same legal rights under the constitution as men.

The Ministry of Labor (MOL) reported that 42 percent of newly created jobs in the financial services sector during 2008 were filled by women. In a national poll conducted by the MOL from April through July, 82 percent of the respondents stated that gender discrimination had decreased over recent years. However, 47 percent of those polled stated that discrimination in the workplace remained a problem.

The number of woman in entry-level civil service positions and new diplomatic positions continued to increase. However, women continued to experience pay discrimination for substantially similar work. The MOGE reported that there were a growing number of companies choosing not to hire women because the law requires that they receive maternity leave. Women returning to work after maternity leave often were assigned to low-level, low-paying jobs. Relative to men few women worked in managerial positions or earned more than a median income.

The law penalizes companies found to discriminate against women in hiring and promotions. A company found guilty of practicing sexual discrimination can be fined up to approximately five million won (approximately \$4,275).

Children.—Citizenship is based on parentage (*jus sanguinis*), not place of birth, and persons must demonstrate their family genealogy as proof of citizenship. Citizenship is also given in circumstances where parentage is unclear if a person is stateless. The government allows anyone to benefit from public services, regardless of birth registration, if they are legal residents. There were no reports of a denial of public services due to a lack of proper birth registration.

From January through December 2008, a total of 7,219 child abuse cases were reported to the Ministry for Health, Welfare and Family Affairs. The MOGE maintained four centers that provided counseling, treatment, and legal assistance to child victims of sexual violence.

The law establishes a minimum sentence of 25 years for the brokerage and sale of the sexual services of persons younger than 19. It also establishes prison terms for persons convicted of the purchase of sexual services of youth under age 19. The Ministry for Health, Welfare, and Family Affairs publicizes the names of those who commit sex offenses against minors. The law provides for prison terms of up to three years or a fine of up to 20 million won (approximately \$17,100) for owners of entertainment establishments who hire persons under 19. The commission's definition of "entertainment establishment" includes facilities such as restaurants and cafes where children work as prostitutes.

The minimum age for consensual sex is 13 years of age. The law stipulates that punishment for statutory rape of a minor and the sex trafficking of a minor be a maximum of three years in prison and/or a 2.4 million won fine (approximately \$20,000); however, the MOJ reported that the punishment for such cases varied.

Trafficking in Persons.—The law prohibits all forms of trafficking in persons; however, there were reports that persons were trafficked to, from, through, and within the country. Women from Russia, other countries of the former Soviet Union, China, Mongolia, the Philippines, and other Southeast Asian countries were trafficked to the country for sexual exploitation and domestic servitude. They were recruited personally or answered advertisements and were flown to Korea, often with entertainer or tourist visas. Some female workers on E-6 (entertainment) visas, who were recruited as singers, were trafficked by their employers/managers and effectively detained by their employers.

An increasing challenge was the number of women from less-developed countries recruited for marriage to Korean men through international marriage brokers. Some, upon arrival in the country, were subjected to sexual exploitation, debt bondage, and involuntary servitude. In some instances, once these visa recipients arrived in the country, employers illegally held victims' passports.

Local women were trafficked primarily for sexual exploitation to the United States, sometimes through Canada and Mexico, as well as to other countries such as Australia and Japan. Labor trafficking continued to be a problem, and some employers allegedly withheld the passports and wages of foreign workers. Migrants seeking opportunities in the country were believed to have become victims of trafficking as well. The MOL's Employment Permit System (EPS) was used to reduce the role of private labor agencies and recruiters, who may have employed exploitative practices. Nevertheless, some migrant workers continued to incur large debts to pay exorbitant broker fees for work in the country. Migrant workers' residence status was tied to their position with their employers, which in some cases exposed them to exploitation and abuse. There were reports that human traffickers illegally used ROK passports for the purpose of human trafficking. There was no evidence that officials were involved in trafficking.

The law prohibits trafficking for the purpose of commercial sexual exploitation, including debt bondage, and prescribes up to 10 years' imprisonment. Trafficking for forced labor is criminalized and carries penalties of up to five years' imprisonment. February 2008 revisions to the Passport Act allow for restricted issuance or confiscation of passports of persons engaging in illegal activity overseas, including sex trafficking. However, some NGOs believed laws against sex trafficking were not being enforced effectively. During the year authorities reportedly conducted 220 trafficking investigations and prosecuted 31 cases, all for sex trafficking. It was unclear, however, how many of these actually were trafficking cases, since the laws used to prosecute traffickers were also used to prosecute other crimes, and the government does not document adequately the number of trafficking cases. There were no reported prosecutions or convictions for labor trafficking offenses.

The Marriage Brokerage Management Act, which entered into effect in June, regulates both domestic and international marriage brokers and prescribes penalties

for dishonest brokers, including sentences of up to three years' imprisonment or fines. There also are laws to protect foreign brides in the country and punish fraudulent marriage brokers, but NGOs claimed the laws needed to be strengthened.

The KNPA and the MOJ were principally responsible for enforcing antitrafficking laws. The government worked with the international community on investigations related to trafficking.

The government maintained a network of shelters and programs to assist victims of abuse, including trafficking victims. Victims also were eligible for medical, legal, vocational, and social support services. NGOs with funding from the government provided many of these services. NGOs reported that there was only one counseling center and two shelters in the country dedicated to foreign victims of sex trafficking, although these victims could access services through other government-funded centers. The MOJ continued to educate male "johns" in an attempt to correct distorted views of prostitution. Some NGOs criticized the fact that women detained for prostitution occasionally were required to attend these rehabilitation seminars along with the male clients. During the year 17,956 individuals participated in the MOJ education program.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—In April 2008 the Anti-Discrimination Against and Remedies for Persons with Disabilities Act (DDA) took effect. The DDA adopts a definition of discrimination encompassing direct discrimination, indirect discrimination, and denial of due conveniences, and it establishes penalties for deliberate discrimination of up to three years in prison and 30 million won (approximately \$25,650). The government, through the Ministry for Health, Welfare, and Family Affairs, initiated a five-year plan to implement a comprehensive set of policies, took measures to make homes barrier free, provided part-time employment, established a task force to introduce a long-term medical care system, and opened a national rehabilitation research center to increase opportunities and access for persons with disabilities. During the year the NHRC received 698 cases of alleged discrimination against persons with disabilities in areas such as employment, property ownership, and access to educational facilities.

Firms with more than 50 employees are required by law to hire persons with disabilities, and firms with more than 100 employees are required to contribute to funds used to promote the employment of persons with disabilities if they do not hire persons with disabilities. Nevertheless, the hiring of persons with disabilities remained significantly below target levels, although government officials contended that the employment rate of disabled persons was increasing.

National/Racial/Ethnic Minorities.—The country is racially homogeneous, with no sizable populations of ethnic minorities. Naturalization required detailed applications, a waiting period, and a series of investigations and examinations. Persons seeking Korean citizenship who are unable to satisfy citizenship requirements through naturalization, family genealogy, place of birth, or statelessness are considered foreign.

The Korea Women Migrants' Human Rights Center confirmed that the government made it easier for foreign wives to obtain citizenship by reducing from four to two the number of years required before a foreign wife is eligible for citizenship. The Korean Immigration Service implemented a written examination for naturalization that reduced the overall waiting period during the screening process by approximately one year. Immigration statistics showed that the number of naturalizations more than doubled from 11,518 cases in 2008 to 24,044 cases during the year.

The local media reported an increase during the year in the number of racially motivated offenses in the country, which has long prided itself on its racial homogeneity, as the number of foreign migrant workers and foreign English-language teachers continued to grow. In November there were reports of local women being harassed for traveling with, dating, or marrying foreign men. There also were reports of employment discrimination against African-American teachers, mixed-race children, and Korean-Americans.

Local NGOs and the media also reported that North Korean refugees, although supported through government-funded resettlement programming, also faced discrimination.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The law prohibits discrimination on the basis of sexual orientation, but societal discrimination persisted. In November 2008 a military court asked the Constitutional Court to rule on the constitutionality of rules prohibiting sexual activity between male military personnel. At year's end the court had not issued a ruling.

The law does not have specific legislation regarding discrimination or violence against lesbians, gays, bisexuals, and transgenders (LGBTs). The MOJ reported that the equality principles under article 11 of the constitution apply to LGBTs. The government punished perpetrators of violence against LGBTs according to the law. There were no cases of discrimination against LGBTs reported during the year.

Other Societal Violence or Discrimination.—The NHRC reported there were 347 employment discrimination cases filed in 2008. Despite cultural respect for the elderly, there were 83 reports of age discrimination and 85 cases of sexual harassment in the workplace.

Some observers claimed that persons with HIV/AIDS suffered from severe societal discrimination and social stigma.

The law ensures equal access to diagnosis and treatment of sexually transmitted diseases and infections, including HIV/AIDS, regardless of gender. It also protects the confidentiality of persons with HIV/AIDS and protects individuals from discrimination. The government supported rehabilitation programs and shelters run by private groups and subsidized medical expenses from the initial diagnosis. The government operated a Web site with HIV/AIDS information and a telephone counseling service.

The NHRC reported that during the year an HIV/AIDS patient was refused treatment at a local hospital. That patient was later given treatment by a national hospital. The NHRC recommended that the government take steps to guarantee the medical rights of HIV/AIDS victims to ensure that such incidents are avoided.

According to a report by an international NGO, the government continued to require HIV testing for foreigners applying for an E-1 (teaching) visa. The report, citing the Korean Center for Disease Control and Prevention, also noted that 521 of 647 foreigners diagnosed with HIV had been forced to leave the country.

Section 7. Worker Rights

a. The Right of Association.—The law provides workers with the right to associate freely and allows public servants to organize unions. The government and labor unions continued to postpone the implementation of the 1997 law that authorizes union pluralism.

The ratio of organized labor in the entire population of wage earners in 2008 was approximately 11 percent. The country has two national labor federations: the Korean Confederation of Trade Unions (KCTU) and the Federation of Korean Trade Unions (FKTU). There are an estimated 4,886 labor unions. The KCTU and the FKTU were affiliated with the International Trade Union Confederation (ITUC). Most of the FKTU's constituent unions maintained affiliations with international union federations. The MOL reported that approximately 1.7 million of the country's 15.8 million workers were union members.

The government recognized a range of other labor federations, including independent white-collar federations representing hospital workers, journalists, and office workers at construction firms and government research institutes. Labor federations not formally recognized by the MOL generally operated without government interference.

By law unions must submit a request for mediation to the Labor Relations Commission before a strike; otherwise, the strike is considered illegal. In most cases the mediation must be completed within 10 days; in the case of essential services, within 15 days. Strikes initiated following this period without majority support from union membership are illegal. Striking is also prohibited in cases in which a dispute has been referred to binding arbitration. Among the workers employed at major defense corporations subject to the Defense Industry Act, those working in the areas of electricity generation, water supply, or production of defense products were not allowed to strike. In addition, if striking employees resort to violence, unlawful occupation of premises, or damaging facilities, their actions are deemed illegal. Strikes not specifically pertaining to labor conditions, including wages, benefits, and working hours, are also illegal. The constitution and the Labor Relations Act provide workers the right to strike and exempt them from legal responsibility in the case of a legal strike; however, workers who use violence and/or participate in illegal activities can be prosecuted under the criminal code on charges of "obstruction of business." Striking workers can be removed by police from the premises and, along with union leaders, prosecuted and sentenced.

In March Amnesty International reported that four journalists and union activists from YTN, a 24-hour news channel, were arrested for "interfering with business" for organizing a strike over wage disputes and government interference with the media. The MOJ reported that the journalists were arrested but later released. In December a court fined the journalists and unionists approximately six million won (approximately \$50,000) for the strike.

Local media and NGOs reported that the police prevented the delivery of food, water, and medical treatment to 800 union workers who physically occupied a Ssangyong auto plant during a strike against layoffs that were being planned by the bankrupt company. The media reported that police helicopters dropped liquefied tear gas on the workers, conducted surveillance, and allowed the company to play extremely loud music on speakers throughout the day and night in an attempt to stop the strike. MOJ officials contended that while the incident was “unfortunate,” the decision to ban food and play loud music was made by the company, not the police. MOJ officials also underscored that the strike was illegal because it was not related to labor conditions and resulted in millions of dollars in property damage. According to the MOJ, of the 94 protesters that were charged in connection with the strike, 72 were fined and the rest were awaiting trial.

In June KCTU President Lee Suk-haeng was convicted and sentenced to two years’ imprisonment and three years probation for “obstruction of business” in connection with his role organizing a general strike in July 2008 to protest government plans to resume foreign beef imports. At year’s end his case was pending in appeals court.

The law prohibits retribution against workers who conduct a legal strike and allows workers to file complaints of unfair labor practices against employers.

The system requiring labor unions in enterprises determined to be of essential public interest to submit to government-ordered arbitration was abolished legally in 2006. Strikes are prohibited for both central and local government officials.

b. The Right to Organize and Bargain Collectively.—The law provides for the right to collective bargaining and collective action, and workers exercised these rights in practice. The law also empowers workers to file complaints of unfair labor practices against employers who interfere with union organizing or who discriminate against union members. Employers found guilty of unfair practices can be required to reinstate workers fired for union activities. According to the ITUC, employers in some cases levied “obstruction of business” charges against union leaders who were seeking to bargain collectively or engage in lawful union activities.

The law permits public servants to organize trade unions and bargain collectively, although it restricts the public service unions from collective bargaining on topics such as policy-making issues and budgetary matters.

Workers in export processing zones (EPZs) have the rights enjoyed by workers in other sectors, and labor organizations are permitted in the EPZs. However, foreign companies operating in the EPZs are exempt from some labor regulations. For example, foreign-invested enterprises are exempt from provisions that mandate paid leave and paid menstruation leave for women, obligate companies with more than 50 persons to recruit persons with disabilities for at least 2 percent of their workforce, encourage companies to reserve 3 percent of their workforce for workers over 55 years of age, and restrict large companies from participating in certain business categories.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law protects children from exploitation in the workplace and prohibits forced or compulsory labor, and the government effectively enforced these laws through regular inspections. Child labor was not considered a problem.

The Labor Standards Law prohibits the employment of persons under age 15 without a special employment certificate from the MOL. Because education is compulsory through middle school (approximately age 15), few special employment certificates were issued for full-time employment. To obtain employment, children under age 18 must obtain written approval from either parents or guardians. Employers must limit minors’ overtime hours and are prohibited from employing minors at night without special permission from the MOL.

e. Acceptable Conditions of Work.—The minimum wage is reviewed annually. During the year the minimum wage was 4,000 won (approximately \$3.40) per hour. The FKTU and other labor organizations asserted that the existing minimum wage did not meet the basic requirements of urban workers.

Persons working in the financial/insurance industry, publicly invested companies, state corporations, and companies with more than 20 employees work a five-day, 40-hour week. Labor laws mandate a 24-hour rest period each week and provide for a flexible hours system under which employers can require laborers to work up to 48 hours during certain weeks without paying overtime (and 52 with approval from the relevant labor union) so long as average weekly hours for any given two-week period do not exceed 40 hours. If a union agrees to a further loosening of the rules,

management may ask employees to work up to 56 regular hours in a given week. Workers may work more than 12 hours per day in overtime during a workweek if both the employer and the employee agree. The Labor Standards Act also provides for a 50 percent higher wage for overtime.

The Korea Occupational Safety and Health Agency (KOSHA) is responsible for implementing industrial accident prevention activities. The government sets health and safety standards, but the accident rate was high by international standards. During the year there were 1,059 fatalities from industrial accidents. During the year KOSHA established a Process Safety Management System to assist petrochemical factories vulnerable to large-scale accidents, conducted safety checks on dangerous machinery and equipment, and subsidized working environment improvements in small and medium-sized enterprises.

Contract and other "nonregular" workers accounted for a substantial portion of the workforce. According to the government, there were approximately 5.7 million nonregular workers, comprising approximately 35 percent of the total workforce. The MOL reported that in general nonregular workers performed work similar to regular workers but received approximately 87 percent of the wages of regular workers. In addition 53 percent of nonregular workers were ineligible for national health and unemployment insurance and other benefits, compared with 6 percent of regular workers.

The law on nonregular workers allows companies with more than 300 workers to use temporary worker contracts valid for a maximum of two years. However, labor groups alleged that employers used a loophole in the law to avoid their obligation to hire part-time workers as regular workers after the two-year time limit.

The MOL reported that the total number of illegal foreign workers was estimated to be approximately 9,200.

The government continued to use the EPS to increase protections and controls on foreign workers while easing the labor shortage in the manufacturing, construction, and agricultural sectors. Through the EPS, permit holders may work in certain industries only and have limited job mobility but generally enjoy the same rights and privileges as citizens, including the right to organize. Foreign workers are limited in their freedom to change jobs. Before changing jobs, the employee's place of work must close down or the worker must have proof of physical abuse by the employer. Unless the MOJ grants an extension on humanitarian grounds, workers lose their legal status if they do not find a new employer within two months.

In September the National Assembly passed amendments to the EPS Act to strengthen human rights protections for foreign workers. The amendments allow more flexibility in the length of contracts, ensure that job changes that are not the fault of migrant workers are excluded from their three allowable job changes, and increase from two to three months the allowable time in between contracts.

During the year 63,323 foreigners entered the country under the EPS. The government implemented a variety of social services and legal precedents to address complaints about the working conditions of foreigners. In April local authorities implemented a variety of programs to ease the difficulties of living and working in the country, including free legal advice programs, free translation services, and the establishment of several "human rights protection centers for foreigners." In July the MOL announced improved health measures that allow migrant workers to receive health checkups in their native language.

In December local authorities approved a request from five foreign lecturers to form a union in the country. Past attempts by foreign migrant workers to unionize had been denied because of their desire to include nondocumented workers in their membership. Local human rights groups complained that the EPS system does not ensure equal rights to migrant workers, alleging that fear of reprisals, limited employment alternatives, and cumbersome grievance processes limited their ability to exercise their rights and increased their vulnerability to exploitation.

In an October review of the migrant worker situation, Amnesty International reported that despite "considerable progress made in the management of migrant labor, first by providing migrant workers regular status as trainees and second by protecting them under labor laws as workers...migrant workers in South Korea are still subjected to human rights violations and exploitative practices."

NGOs and local media reported that irregular workers were at a greater risk for discrimination because of their status and foreign laborers sometimes faced physical abuse and exploitation from employers. The NGO Korea Migrant Center received reports of abuse of female entertainment visa holders.

The MOJ reported that, as of October, foreign workers filed 8,074 complaints related to unpaid wages.

Foreign workers employed as language teachers continued to complain that the institutes for which they worked frequently violated employment contracts. How-

ever, employers countered that there were a large number of foreign teachers who did not fully honor their work contracts.

LAOS

The Lao People's Democratic Republic, with a World Bank-estimated population of 6.3 million, is an authoritarian one-party state ruled by the Lao People's Revolutionary Party (LPRP). The most recent National Assembly (NA) election was held in 2006. The constitution legitimizes only a single party, the LPRP, and almost all candidates in the 2006 election were LPRP members vetted by the party. The LPRP generally maintained effective control of the security forces.

The central government continued to deny citizens the right to change their government. Prison conditions were harsh and at times life threatening. Corruption in the police and judiciary persisted. The government infringed on citizens' right to privacy and did not respect the rights to freedom of speech, the press, assembly, or association. Local officials at times restricted religious freedom and freedom of movement. Trafficking in persons, especially women and girls for prostitution, remained a problem, as did discrimination against ethnic minorities. Workers' rights were restricted.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no confirmed reports of politically motivated killings by the government or its agents. There were reports that occasional action by military units against small insurgent groups in Vientiane and Xieng Khouang provinces, including the former Saisomboun Special Zone, resulted in a limited but unknown number of deaths and injuries.

There were no developments in the cases of persons allegedly killed by the military or police in previous years.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits the beating or torture of an arrested person. In practice members of the police and security forces sometimes abused prisoners, especially those suspected of association with the insurgency.

Detainees sometimes were subjected to beatings and long-term solitary confinement in completely darkened rooms, and in many cases they were detained in leg chains or wooden stocks for long periods. Former inmates reported that degrading treatment, the chaining and manacling of prisoners, and solitary confinement in small unlit rooms were standard punishments in larger prisons, while smaller provincial or district prisons employed manacles and chains to prevent prisoners from escaping.

Prison and Detention Center Conditions.—Prison conditions varied widely but in general were harsh and occasionally life threatening. Prisoners in larger, state-operated facilities in Vientiane generally fared better than those in provincial prisons. Food rations were minimal, and most prisoners relied on their families for subsistence. Most of the larger facilities allowed prisoners to grow supplemental food in small vegetable gardens, although there were periodic reports that prison guards took food from prisoners' gardens. Prison wardens set prison visitation policies. Consequently, in some facilities families could make frequent visits, but in others visits were severely restricted.

There were credible reports from international organizations that authorities treated ethnic minority prisoners particularly harshly. Former prisoners reported that incommunicado detention was used as an interrogation device and against perceived problem prisoners; however, there were fewer reports of its use during the year. Although most prisons had some form of clinic, usually with a doctor or nurse on staff, medical facilities were extremely poor, and medical treatment for serious ailments was unavailable. In some facilities prisoners could arrange treatment in outside hospitals if they could pay for the treatment and the expense of police escorts.

Prisons held both male and female prisoners, but they were placed in separate cells. In some prisons juveniles were held with adult prisoners, although there were no official or reliable statistics available. Most juveniles were in detention for narcotics offenses or petty crimes. Rather than send juveniles to prisons, authorities used drug treatment facilities as holding centers for juvenile offenders. While condi-

tions in treatment facilities were generally better than those in prisons, conditions were nevertheless Spartan, and lengths of detention were indefinite.

The government did not permit regular independent monitoring of prison conditions. The government continued to deny the request of the International Committee of the Red Cross (ICRC) to establish an official presence in the country to monitor prison conditions. The government at times provided foreign diplomatic personnel access to some prisons, but such access was strictly limited.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, in practice the government did not respect these provisions, and arbitrary arrest and detention persisted.

Role of the Police and Security Apparatus.—The Ministry of Public Security (MoPS) maintains internal security but shares the function of state control with the Ministry of Defense's security forces and with the LPRP and the LPRP's popular front organizations. The MoPS includes local police, traffic police, immigration police, security police (including border police), and other armed police units. Communication police are responsible for monitoring telephone and electronic communications. The armed forces have domestic security responsibilities that include counterterrorism and counterinsurgency as well as control of an extensive system of village militias.

Impunity remained a problem, as did police corruption. Many police officers used their authority to extract bribes from citizens. Corrupt officials reportedly were rarely punished. Police are trained at the National Police Academy, but the extent to which the academy's curriculum covered corruption was unknown. The MoPS Inspection Department maintained complaint boxes throughout most of the country for citizens to deposit written complaints.

The government cooperated with international organizations to develop a national strategy to strengthen law enforcement and deal with increased drug trafficking and abuse as well as related crime and police corruption. During the year the government approved the National Drug Control Master Plan and began implementing its provisions.

Arrest Procedures and Treatment While in Detention.—Police and military forces have powers of arrest, although normally only police carried them out. Police agents exercised wide latitude in making arrests, relying on exceptions to the requirement that warrants are necessary except to apprehend persons in the act of committing crimes or in urgent cases. Police reportedly sometimes used arrest as a means to intimidate persons or extract bribes. There were reports that military forces occasionally detained persons suspected of insurgent activities.

There is a one-year statutory limit for detention without trial. The length of detention without a pretrial hearing or formal charges is also limited to one year. The Office of the Prosecutor General (OPG) reportedly made efforts to ensure that all prisoners were brought to trial within the one-year limit, but the limit sometimes was ignored. The OPG must authorize police to hold a suspect pending investigation. Authorization is given in three-month increments, and a suspect must be released after a maximum of one year if police do not have sufficient evidence to bring charges. There is a bail system, but its implementation was arbitrary. Prisoner access to family members and a lawyer was not assured, and incommunicado detention remained a problem.

Authorities sometimes continued to detain prisoners after they completed their sentences, particularly in cases where prisoners were unable to pay court fines. In other cases prisoners were released contingent upon their agreement to pay fines at a later date. There were no reports that police administratively overruled court decisions by detaining exonerated individuals.

There were no known developments in the cases of nine persons, all male heads of families from Vientiane Province detained in mid-2007 on unknown charges, who had been in custody in Thong Harb Prison.

e. Denial of Fair Public Trial.—The law provides for the independence of the judiciary. There were no cases reported during the year of senior government or party officials influencing the courts. Impunity and corruption were problems; reportedly, some judges could be bribed. The NA may remove judges from office for "impropriety," and the November NA session removed three.

The people's courts have three levels: district and provincial, appeals, and supreme. There is also a commercial court, family court, military court, and juvenile court. Decisions of the lower courts are subject to review by the Supreme People's Court (SPC), but military court decisions are not.

In November the NA reorganized the district court system into zonal courts, reducing the number of courts to 39. All were operational at year's end.

Trial Procedures.—Juries are not used. Trials that involve certain criminal laws relating to national security, state secrets, children under the age of 16, or certain types of family law are closed. The law provides for open trials in which defendants have the right to defend themselves with the assistance of a lawyer or other persons. Defense attorneys are provided at government expense only in cases involving children, cases with the possibility of life imprisonment or the death penalty, and cases considered particularly complicated, such as those involving foreigners. The law requires that authorities inform persons of their rights and states that defendants may have anyone assist them in preparing written cases and accompany them at trial; however, only the defendant may present oral arguments at a criminal trial. Defendants are permitted to question witnesses and can present witnesses and evidence on their own behalf.

Court litigants may select members of the Lao Bar Association to represent them at trial. The association is nominally independent but receives some direction from the Ministry of Justice (MoJ). For several reasons, including the general perception that attorneys cannot affect court decisions, most defendants did not choose to have attorneys or trained representatives. The association's two satellite offices in the provinces of Champasak and Oudomsay provided legal services to citizens in need.

By law defendants enjoy a presumption of innocence; however, in practice judges usually decided guilt or innocence in advance, basing their decisions on the result of police or prosecutorial investigation reports. Most trials, including criminal trials, were little more than pro forma examinations of the accused and review of the evidence. Defendants have the right of appeal.

All of the country's judges were LPRP members. Most had only basic legal training, and many provincial and district courts had few or no reference materials available for guidance. The NA's Legal Affairs Committee occasionally reviewed SPC decisions for "accuracy" and returned cases to it or the OPG for review when the committee believed decisions were reached improperly.

Political Prisoners and Detainees.—There were three well-known political prisoners. Colonel Sing Chanthakoumane, an official of the pre-1975 government, was serving a life sentence after a 1990 trial that was not conducted according to international standards. Sing reportedly was very ill, but the government prevented regular access to him and ignored numerous requests to release him on humanitarian grounds. At least two persons, Thongpaseuth Keuakoun and Seng-aloun Phengboun, arrested in 1999 for attempting to organize a prodemocracy demonstration, continued to serve 10-year sentences for antigovernment activities. Authorities allowed families to visit them, but no humanitarian organization had regular access to them.

According to former prisoners, authorities continued to detain a small but unknown number of persons, particularly members of the Hmong ethnic group suspected of insurgent activities, for allegedly violating criminal laws concerning national security. According to credible reports, other persons were arrested, tried, and convicted under laws relating to national security that prevent public court trials, but there was no reliable method to ascertain their total number. In November the government reportedly detained nine individuals traveling to the capital for a protest.

Civil Judicial Procedures and Remedies.—The law provides for independence of the judiciary in civil matters; however, enforcement of court orders remained a problem. If civil or political rights are violated, one may seek judicial remedy in a criminal court or pursue an administrative remedy from the NA under the law. In regard to social and cultural rights, one may seek remedy in a civil court.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law generally protects privacy, including that of mail, telephone, and electronic correspondence, but the government reportedly violated these legal protections when there was a perceived security threat.

The law prohibits unlawful searches and seizures. By law police must obtain search authorization from a prosecutor or a panel of judges, but in practice police did not always obtain prior approval, especially in rural areas. Security laws allow the government to monitor individuals' movements and private communications, including via cell phones and e-mail.

The MoPS regularly monitored citizen activities through a surveillance network that included a secret police element. A militia in urban and rural areas, operating under the aegis of the armed forces, shared responsibility for maintaining public order, reported "undesirable elements" to police, and provided security against insurgents in remote rural areas. Members of the LPRP's front organizations, including the Lao Women's Union (LWU), the Youth Union, and the Lao Front for National Construction (LFNC), also played a role in monitoring citizens at all societal levels.

The government relocated some villagers for land concessions given to development projects and continued to relocate highland farmers, most of whom belonged to ethnic minority groups, to lowland areas under its plan to end opium production and slash-and-burn agriculture. In some areas officials persuaded villagers to move; in others villagers relocated spontaneously to be closer to roads, markets, and government services. There also were some reports of force used. Although the resettlement plan called for compensating farmers for lost land and providing resettlement assistance, this assistance was not available in many cases or was insufficient to give relocated farmers the means to adjust. Moreover, in some areas farmland allotted to relocated villagers was poor and unsuited for intensive rice farming, resulting in some relocated villagers experiencing increased poverty, hunger, malnourishment, disease, and death. The government relied on assistance from nongovernmental organizations (NGOs), bilateral donors, and international organizations to cover the needs of those recently resettled, but such aid was not available in all areas.

The law allows citizens to marry foreigners only with prior government approval; marriages without it may be annulled with both parties subject to arrest and fines. Premarital cohabitation is illegal. The government routinely granted permission to marry, but the process was lengthy and burdensome, offering officials the opportunity to solicit bribes.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, in practice the government severely restricted political speech and writing and prohibited most public criticism that it deemed harmful to its reputation. The law forbids slandering the state, distorting party or state policies, inciting disorder, or propagating information or opinions that weaken the state.

Authorities prohibited the dissemination of materials deemed by the Ministry of Information and Culture to be indecent, subversive of “national culture,” or politically sensitive. Any person found guilty of importing a publication considered offensive to the national culture faced a fine or imprisonment up to one year.

The state owned and controlled most domestic print and electronic media. Local news in all media reflected government policy. Although domestic television and radio broadcasts were closely controlled, the government did not interfere with broadcasts from abroad. Many citizens routinely watched Thai television or listened to Thai radio, including news broadcasts from international news sources. Citizens had 24-hour access to international stations via satellite and cable television. The government required registration of receiving satellite dishes and payment of a one-time licensing fee, largely as a revenue-generating measure, but otherwise made no effort to restrict use.

The government permitted the publication of several privately owned periodicals of a nonpolitical nature, including those specializing in business, society, and trade. While officials did not review in advance all articles in these periodicals, they reviewed them after publication and could penalize periodicals whose articles did not meet government approval. A few foreign newspapers and magazines were available through private outlets that had government permission to sell them.

The government required foreign journalists to apply for special visas and restricted their activities. Authorities did not allow journalists free access to information sources but often allowed them to travel without official escorts. When escorts were required, they reportedly were at journalists’ expense.

Internet Freedom.—The government controlled all domestic Internet servers and retained the ability to block access to Internet sites it deemed pornographic or critical of government institutions and policies. The Lao National Internet Committee under the Prime Minister’s Office administered the Internet system.

The government sporadically monitored Internet usage.

The Prime Minister’s Office required all Internet service providers to submit quarterly reports and link their gateways to facilitate monitoring, but the government’s enforcement ability appeared limited. Unlike in previous years, the government did not block major foreign news sources, nor did it have the capability to monitor blogging or the establishment of new Web sites.

Many citizens used the services of a growing number of Internet cafes for private correspondence rather than personal computers. Very few homes had Internet access; most nonbusiness users depended on Internet cafes located chiefly in the larger urban areas. Citizen users are required to register with the authorities, which may have caused some to self-censor their Internet behavior. The International Telecommunication Union reported that Internet users numbered approximately 2 percent of the country’s inhabitants in 2008.

Academic Freedom and Cultural Events.—The law provides for academic freedom, but in practice the government imposed restrictions. The Ministry of Education tightly controlled curricula in schools, including private schools and colleges.

Both citizen and noncitizen academic professionals conducting research in the country may be subject to restrictions on travel, access to information, and publication. The government exercised control, via requirements for exit stamps and other mechanisms, over the ability of state-employed academic professionals to travel for research or obtain study grants, but it actively sought such opportunities worldwide and approved virtually all such proposals.

The government required films and music recordings produced in government studios to be submitted for official censorship; however, uncensored foreign films and music were available in video and compact disc formats. The Ministry of Information and Culture repeatedly attempted to impose restrictions aimed at limiting the influence of Thai culture in Lao music and entertainment, but these restrictions were widely ignored and appeared to have little effect.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The law provides for freedom of assembly; however, the government restricted this right in practice. The law prohibits participation in demonstrations, protest marches, or other acts that cause “turmoil or social instability.” Participation in such acts is punishable by prison terms of one to five years (see section 1.e.).

Freedom of Association.—The law provides citizens the right to organize and join associations, but the government restricted this right in practice. For example, political groups other than popular-front organizations approved by the LPRP are forbidden. A new decree that the government began implementing in October allows the registration of nonprofit civil organizations—including economic, social-welfare, professional, technical, and creative associations—at the district, provincial, or national level, depending on the scope of work and membership. No organization completed the application process by year’s end.

c. Freedom of Religion.—The constitution provides for freedom of religion and notes that the state “mobilizes and encourages” Buddhist monks and novices as well as priests of other religions to participate in activities “beneficial to the nation and the people.” In most areas officials generally respected the rights of members of most religious groups to worship, albeit within strict government-imposed constraints. The constitution prohibits “all acts of creating division of religion or creating division among the people.” The LPRP and the government used this to justify restrictions on religious practice by all religious groups, including the Buddhist majority and animists. Official pronouncements acknowledged the positive benefits of religion, but they also emphasized its potential to divide, distract, or destabilize.

Although the state was secular, the LPRP and the government supported Theravada Buddhism, which was followed by more than 40 percent of the population. The government provided support for and oversight of temples and other facilities and promoted Buddhist practices, giving Buddhism an elevated status among the country’s religions.

The government officially recognizes four religions: Buddhism, Christianity, Islam, and the Baha’i Faith. Recognized Christian groups included the Catholic Church, the Lao Evangelical Church (LEC), and the Seventh-day Adventist Church. The LFNC refused to recognize congregations, such as the Methodists, that operated independently.

Decree 92 on Religious Practice defines rules for religious practice and institutionalizes the government as the final arbiter of permissible religious activities. The LFNC is responsible for oversight of religious practice. The majority of provincial, district, and local officials reportedly lacked full understanding of the decree. Authorities, particularly at the local level in some provinces, used its many conditions to restrict some aspects of religious practice.

Many minority religious leaders complained that Decree 92, which intends among other things to permit activities such as proselytizing and printing religious material, was too restrictive in practice. They maintained that the requirement to obtain permission, sometimes from several offices, for a broad range of activities greatly limited their freedom.

The LFNC often sought to intervene with local governments in cases where minority religious practitioners, particularly Christians, had been harassed or mistreated. The LFNC reportedly became more proactive about solving problems by educating persons to respect the law as well as by training local officials to respect religious believers and to understand Decree 92 better.

The government’s tolerance of religion, particularly Christianity, varied by region. In most areas, members of long-established congregations had few problems practicing their faith. Authorities in some areas sometimes advised new congregations

to join the LEC, despite clear differences between the groups' beliefs. However, in others authorities allowed congregations not affiliated with the LEC or Seventh-day Adventists to continue worship unhindered. Authorities in some provinces used threats of arrest to intimidate local religious communities.

Authorities in some areas continued to be suspicious of non-Buddhist religious communities and displayed intolerance for minority religious practices, particularly by Protestant groups, whether or not they were officially recognized. Some local authorities, apparently at times with encouragement from government or LPRP officials, singled out Protestant groups as targets of abuse or pressure to renounce their faith.

In July local officials reportedly banned Christianity in Katin village, Salavan Province, and confiscated pigs from Christians.

In September inhabitants of Bansai village, Savannakhet Province, reportedly pressured a Christian man to renounce his faith or leave the village. Other Christians in the same area reported difficulty in holding worship services, because there was no authorized building for worship and the police harassed them for worshipping in houses.

Also in September in Jinsangmai village, Luang Namtha Province, all Christian believers reportedly recanted their faith, including a man previously jailed for refusing to do so.

In November police in Vientiane Municipality told three Christian churches to cease holding services until the Southeast Asian Games ended in December. Authorities prevented one church from holding services, which resumed the following week. At another church, the police reportedly forced worshipers to sign either a renunciation of their faith or a petition against the games.

In April authorities released the remaining two Khmu pastors held in Oudomsai provincial prison since their arrest in March 2008 while attempting to cross into Thailand carrying documents critical of religious persecution in Laos.

Local officials in some areas threatened to withhold government identification cards and household registration documents as well as to deny educational benefits to those who did not give up their religious beliefs. In addition the most common problem faced by Christian communities was the inability to obtain permission to build new churches, even though group worship in homes was considered illegal by local authorities in many areas. Religious organization representatives pointed out that the building-permit process at both local and provincial levels was used to block new church construction.

The government strictly prohibited foreigners from proselytizing but permitted foreign NGOs with religious affiliations to operate in the country. Foreigners who distributed religious material were subject to arrest or deportation. Although Decree 92 permits proselytizing by religious practitioners, provided they obtain LFNC permission, the authorities did not grant such permission, and persons found evangelizing risked harassment or arrest.

The government did not allow the printing of Bibles and required special permission to import them for distribution.

Societal Abuses and Discrimination.—For the most part, the various religious communities coexisted amicably. There was no known Jewish community in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, but in practice the government imposed some restrictions. The government did not cooperate with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Citizens who travel across provincial borders are not required to report to authorities; however, in designated security zones, officials occasionally set up roadblocks and checked identity cards. Citizens seeking to travel to contiguous areas of neighboring countries generally obtained permits easily from district offices. Those wishing to travel farther abroad were required to apply for passports; however, local-level officials sometimes denied permission even to apply.

The government did not use forced exile; however, it denied the right of return to persons who fled the country during the 1975 change in government and were tried in absentia for antigovernment activities.

Protection of Refugees.—The country is not a signatory to the 1951 Convention relating to the Status of Refugees or its 1967 Protocol, but the law provides for asylum

and the protection of stateless persons. In practice the government did not provide protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government did not routinely grant refugee or asylum status; however, it showed some flexibility in dealing pragmatically with individual asylum cases.

Lao Hmong who had been detained in Thailand began to return to Laos during 2007. The government continued to refuse the UNHCR's request to reestablish an in-country presence, which it had in the 1990s, to monitor the reintegration of returnees. The government stated that the UNHCR's mandate expired in 2001 and all former refugees had successfully reintegrated. In December 2008 and during 2009, foreign diplomats, representatives from international organizations (including the UNHCR), and the press visited various sites, including Pha Lak, where the Lao Hmong returned from Thailand were resettled.

During the year the government accepted the repatriation of nearly all Lao Hmong from Thailand from a group of approximately 5,700 persons confined to a camp or held in a detention center by Thai authorities and considered by both countries' authorities to be illegal migrants. The UNHCR had granted person-of-concern status to the 158 persons held in the detention center, however, and there was no internationally accepted process used to determine whether any Hmong in the camp could establish a well-founded fear of persecution and seek status as an international person of concern. Although Lao and Thai authorities stated that the returns were voluntary, independent observers were not allowed to witness the December 28 repatriation of more than 4,350 persons, and the government did not allow access to the returnees.

The government's policy both for Hmong surrendering internally and for those being returned from Thailand was to return them to communities of origin whenever possible. However, at year's end the government held most of the December 28 returnees at a camp in Paaksan, Borikhamsay Province, for settlement processing. Among earlier returnees, several hundred persons without strong community links were relocated in government settlements such as Pha Lak village, Vientiane Province, where the government provided land, housing, clean water, and electricity plus one year's supply of food. Of the December 28 returnees, initial indications were that approximately 1,300 persons returned to communities of origin and the remaining number went to other government settlements.

At times during the year, the government permitted limited access by international organizations and NGOs to provide food and other material assistance to former insurgents who had accepted government resettlement offers. Independent observers were not allowed access to December 28 returnees by year's end, however.

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

Citizens do not have the right to change their government. Although the constitution outlines a system composed of executive, legislative, and judicial branches, the LPRP controlled governance and the leadership at all levels through its constitutionally designated "leading role."

Elections and Political Participation.—The law provides for a representative national assembly, elected every five years in open, multiple-candidate, fairly tabulated elections, with voting by secret ballot and universal adult suffrage. However, the constitution legitimizes only the LPRP; all other political parties are outlawed. Election committees, appointed by the NA, must approve all candidates for local and national elections. Candidates do not need to be LPRP members, but in practice almost all were. The most recent NA election, held in April 2006, was conducted under this system.

The NA chooses members of the Standing Committee, generally based on the previous Standing Committee's recommendations. Upon such recommendations, the NA elects or removes the president and vice president. The Standing Committee has the mandate to supervise all administrative and judicial organizations and the sole power to recommend presidential decrees. It also appoints the National Election Committee, which has powers over elections, including approval of candidates. Activities of the Standing Committee were not fully transparent.

The NA, upon the president's recommendation, formally elects the prime minister and other government ministers.

There were 29 women in the 115-seat NA, including two on the nine-member Standing Committee. The 55-seat LPRP Central Committee included four women, one of whom was also a member of the 11-member Politburo. Of 12 ministers in the Prime Minister's Office, two were women. The minister of labor and social welfare also was a woman. Three women served on the 13-member SPC.

There were seven members of ethnic minorities in the LPRP Central Committee, including two in the Politburo. The NA included 23 members of ethnic minorities, while three of the 28 cabinet ministers were members of ethnic minority groups. One SPC justice was a member of an ethnic minority.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials often engaged in corrupt practices with impunity. Wages of all government officials were extremely low; and many officials, such as police, had broad powers that they could easily abuse.

In theory the government's National Audit Committee has responsibility for uncovering corruption in all government ministries, including the MoPS, but in practice its investigative activities were minimal. Authorities arrested and punished lower-level officials on occasion for corruption. In November authorities arrested three mid-level ministry officials on undisclosed, but reportedly corruption-related, charges. The government-controlled press rarely reported cases of official corruption.

Central and provincial inspection organizations responsible for enforcing laws against corruption lacked defined roles and sufficient powers as well as sufficient funding, equipment, and legal support from the government.

Prior to taking their designated positions, senior officials are required by party policy to disclose their personal assets to the LPRP's Party Inspection Committee. The committee inspects the officials' assets before and after the officials have been in their positions. However, the LPRP used its control of government authorities and media to block public censure of corrupt officials who were party members.

There are no laws providing for public access to government information, and in general the government closely guarded the release of any information pertaining to its internal activities, deeming such secrecy necessary for "national security."

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There were no domestic human rights NGOs.

The government only sporadically responded in writing to requests for information on the human rights situation from international human rights organizations. However, the government maintained human rights dialogues with several foreign governments and continued to receive training in UN human rights conventions from several international donors.

The government maintained contacts and cooperated with the ICRC in various activities for the implementation of international humanitarian law.

A human rights division in the Ministry of Foreign Affairs has responsibility for investigating allegations of human rights violations. However, in practice the division apparently had no authority to perform or order other ministries to undertake investigations. The ministry on occasion responded to inquiries from the UN regarding its human rights situation.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution provides for equal treatment under the law for all citizens without regard to sex, social status, education, faith, or ethnicity. The government at times took action when well-documented and obvious cases of discrimination came to the attention of high-level officials, although the legal mechanism whereby citizens may bring charges of discrimination against individuals or organizations was neither well developed nor widely understood among the general population.

Women.—The LWU—the LPRP mass organization focused on women's issues, with a presence in every village and at every government level—reported that rape was rare. The law criminalizes rape, with punishment set at three to five years' imprisonment. Sentences are significantly longer and may include capital punishment if the victim is under age 18 or is seriously injured or killed. In rape cases that were tried in court, defendants generally were convicted with sentences ranging from three years' imprisonment to execution.

Spousal abuse is illegal. According to the LWU and anecdotal reports from international NGOs, domestic violence against women occurred, but such violence did not appear to be widespread. Penalties for domestic abuse, including battery, torture, rape, and detaining persons against their will, may include both fines and imprisonment. LWU centers and the Ministry of Labor and Social Welfare (MLSW) in cooperation with NGOs assisted victims of domestic violence. Statistics were unavailable on the number of abusers prosecuted, convicted, or punished.

Prostitution is illegal, with penalties ranging from three months to one year in prison. However, in practice antiprostitution laws generally were not enforced, and

in some cases officials reportedly were involved in the trade. Trafficking in women and girls for prostitution remained a problem.

Sexual harassment was rarely reported, and the extent was difficult to assess. Although sexual harassment is not illegal, "indecent sexual behavior" toward another person is illegal and punishable by six months to three years in prison.

Couples and individuals had the right to decide the number, spacing, and timing of children, and had the information and means to do so free from discrimination. Access to information on contraception was available. Because of the general lack of adequate medical care, skilled attendance at delivery and in postpartum care was not widely available. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections, including HIV.

The law provides for equal rights for women, and the LWU operated nationally to promote the position of women in society. The law prohibits legal discrimination in marriage and inheritance; however, varying degrees of traditional, culturally based discrimination against women persisted, with greater discrimination practiced by some hill tribes. The LWU conducted several programs to strengthen the role of women. The programs were most effective in the urban areas. An internationally funded program provided food to schoolchildren's families, with girls receiving more food for the families than boys. Many women occupied responsible positions in the civil service and private business, and in urban areas their incomes were often higher than those of men.

Children.—Children acquire citizenship if both parents are citizens, regardless of the birth's location. Children born of one citizen parent acquire citizenship if born in the country or, when born outside the country's territory, if one parent has a permanent in-country address. Not all births were immediately registered.

Education is compulsory, free, and universal through the fifth grade; however, high fees for books and supplies and a general shortage of teachers in rural areas prevented many children from attending school. There were significant differences among the various ethnic groups in the educational opportunities offered to boys and girls. Although the government's policy is to inform ethnic groups on the benefits of education for all children, some ethnic groups did not consider education for girls either necessary or beneficial. While figures were not reliable, literacy rates for girls were approximately 10 percent lower than for boys in general.

The law prohibits violence against children, and violators were subject to stiff punishments. Reports of the physical abuse of children were rare.

The law does not contain penalties specifically for child prostitution, but the penalty for sex with a child (defined as under 15 years of age, the age of consent) is one to five years' imprisonment and a fine of 500,000 to three million kip (approximately \$60 to \$360). The law does not include statutory rape as a crime distinct from sex with a child or rape of any person. Child pornography is not treated differently from pornography in general, for which the penalty is three months' to one year's imprisonment and a fine of 50,000 to 200,000 kip (approximately \$6 to \$24).

A general increase in tourism in the country and a concomitant probable rise in child sex tourism in Southeast Asia in recent years attracted the attention of authorities, who sought to prevent child sex tourism from taking root. The government continued efforts to reduce demand for commercial sex through periodic raids and training workshops. The government and NGOs hosted seminars to train tourism-sector employees, including taxi drivers and tourism police. Many major international hotels in Vientiane and Luang Prabang displayed posters created by international NGOs warning against child sex tourism. In December the government introduced a hotline for reporting child sex tourism.

Trafficking in Persons.—The law prohibits all forms of trafficking as well as abduction and trade in persons, detaining persons against their will, procuring persons for commercial sex, and prostitution. Men, women, and children, particularly women and girls, were trafficked to, from, through, or within the country.

The prescribed legal penalties for human trafficking, depending on the severity of the offense, include sentences ranging from five years to 20 years, life imprisonment, or death, and also fines ranging from 10 million to one billion kip (approximately \$1,200 to \$120,000) plus asset confiscation.

The country was primarily a country of origin for trafficking in persons, including girls ages 13 to 16 for forced labor and prostitution, and, to a much lesser extent, a country of transit. The primary destination country was Thailand. There was almost no effective border control. The Thai Ministry of Labor estimated that at least 250,000 Lao workers were employed in Thailand, of whom at least 80,000 were unregistered. An unknown number of these persons were trafficked, although a September study by the UN Office on Drugs and Crime (UNODC) reported that two-thirds of the Lao citizens in Thailand identified as trafficking victims were traf-

ficked after crossing the border. The small number of victims trafficked within the country were primarily from the northern provinces, such as Houaphan and Xieng Khouang, and were trafficked for sexual exploitation or factory work. According to an international NGO study, a very small number of female citizens also were trafficked to China to become brides for Chinese men. The UNODC estimated that 90 percent of trafficking victims ended up in Thailand: the majority were women between ages 15 and 25, and 35 percent became victims of sexual exploitation.

Most trafficking victims were lowland Lao, although traffickers also victimized small but increasing numbers of minority women. Minority groups were particularly vulnerable, because they did not have the cultural familiarity or linguistic proximity to Thai that Lao-speaking workers could use to protect themselves from exploitative situations in Thailand. A much smaller number of trafficked foreign citizens, especially Burmese and Vietnamese, transited through the country or were trafficked to Laos.

Many labor recruiters in the country were local persons with cross-border experience and were known to the trafficking victims. For the most part, they had no connection to organized crime, commercial sexual exploitation, or the practice of involuntary servitude, and their services usually ended once their charges reached Thailand, where the victims were exploited by better-organized trafficking groups.

The SPC reported that 15 persons were convicted for human trafficking in 2008. Of these, according to incomplete data from the MoPS, authorities sentenced one trafficker to 15 years' imprisonment and a fine, while two others received one-year sentences and were fined. Law enforcement officers cooperated in joint investigations with their Thai counterparts from northeast Thailand and also worked with Vietnamese law enforcement on the trafficking routes through the south-central part of the country.

Corruption remained a problem, with government officials susceptible to involvement or collusion in trafficking. Anecdotal evidence suggested that local officials knew of trafficking activities, and some may have profited from them. However, no government or law enforcement officials were disciplined or punished for involvement in trafficking in persons.

The government continued some limited protection efforts for victims of trafficking during the year. Authorities raided a restaurant in 2008, rescued nine Vietnamese sex-trafficking victims including one minor, and repatriated two of the nine victims. The seven other victims did not wish repatriation and were allowed to return to the restaurant, although authorities withheld their passports; four of those victims later requested repatriation assistance and were repatriated, and in March the government repatriated the remaining three victims. No traffickers were prosecuted.

The MLSW and the Immigration Department cooperated with the International Organization for Migration, the UN Inter-Agency Project on Human Trafficking in the Greater Mekong Sub-region, and local and international NGOs to provide assistance to victims. The MLSW continued to operate a small transit center in Vientiane where trafficking victims identified in Thailand remained for a short time before being transferred to another facility or returned home. Victims not wanting to return home were referred to a long-term shelter operated by the LWU or to a local NGO. The government provided medical services, counseling, vocational training, and employment services for victims in its transit shelter in Vientiane and at the LWU shelter. The MLSW had a unit devoted to children with special needs, including protection of child trafficking victims and prevention of child trafficking. The MLSW also maintained two small-scale repatriation assistance centers for returned victims of trafficking in Vientiane and Savannakhet, but their effectiveness was limited by a small budget, inadequate international assistance, and a lack of trained personnel.

The MLSW, in addition to operating departments in the provinces, worked with NGOs to provide additional assistance to trafficking victims. It referred cases from immigration authorities and the MLSW transit shelter in Vientiane to NGOs for longer-term shelter and follow-up on cases where the victims were returned home.

With support from the UN Children's Fund (UNICEF), the National Commission for Mothers and Children continued an active victim support program. Through legal aid clinics, the Lao Bar Association, which is under the MoJ umbrella, also assisted victims by providing general awareness programs on the legal system and legal advice. The LWU and the Lao Youth Union offered educational programs designed to inform girls and young women about the schemes of recruiters for brothels and sweatshops in neighboring countries and elsewhere. These organizations were most effective in disseminating information at the grassroots.

The government itself educated the population on the dangers of trafficking, using the media and public appearances by senior leaders. The MLSW also worked with UNICEF to set up awareness-raising billboards near border checkpoints and larger

cities and conducted a campaign on trafficking issues in preparation for the December Southeast Asian Games.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The constitution provides citizens protection against discrimination but does not specify that these protections apply to persons with disabilities. Regulations promulgated by the MLSW and the Lao National Commission for the Disabled protect such persons against discrimination; however, the regulations lack the force of law. The law does not mandate accessibility to buildings or government services for persons with disabilities, but the MLSW has established regulations regarding building access and built some sidewalk ramps in Vientiane. There were no reports of discrimination in the workplace.

In August and September, the MLSW conducted workshops with international NGOs in Vientiane Municipality and Savannakhet, Xekong, and Champasak provinces to increase awareness of the rights of persons with disabilities. The Lao Disabled People's Association operated a care center for children with cerebral palsy; the cost was covered by foreign assistance. The Ministry of Health in conjunction with international NGOs operated the Cooperative Orthotic and Prosthetic Enterprise to supply prosthetic limbs, correct club feet, and provide education to deaf and blind persons.

National/Racial/Ethnic Minorities.—The law provides for equal rights for all minority citizens, and there is no legal discrimination against them; however, societal discrimination persisted. Moreover, critics charged that the government's resettlement program for ending slash-and-burn agriculture and opium production adversely affected many ethnic minority groups, particularly in the North. The program requires that resettled persons adopt paddy rice farming and live in large communities, ignoring the traditional livelihoods and community structures of these minority groups. International observers questioned whether the benefits promoted by the government—access to markets, schools, and medical care for resettled persons—outweighed the negative impact on traditional cultural practices. Some minority groups not involved in resettlement, especially those in remote locations, faced difficulties, believing they had little voice in government decisions affecting their lands and the allocation of natural resources from their areas.

Of the 49 ethnic groups in the country, the Hmong are one of the largest and most prominent highland minority groups. There were a number of Hmong officials in the senior ranks of the government and the LPRP, including one Politburo member and five members of the LPRP Central Committee. However, societal discrimination persisted against the Hmong, and some Hmong believed their ethnic group could not coexist with ethnic Lao. This belief fanned separatist or irredentist beliefs among some Hmong. The government focused limited assistance projects in Hmong areas to address regional and ethnic disparities in income, which helped ameliorate conditions in the poorest districts.

Although there were no reports of attacks by the few remaining Hmong insurgent groups during the year, the government leadership maintained its suspicion of Hmong political objectives. Security forces continued operations to isolate and defeat or force the surrender of the residual, small, scattered pockets of insurgents and their families in remote jungle areas.

The government continued to offer "amnesty" to insurgents who surrender but continued to deny international observers permission to visit the estimated more than 2,000 insurgents who have surrendered since 2005—other than a few families in Pha Lak village. Their status and welfare remained unknown at year's end. Because of their past activities, amnestied insurgents continued to be the focus of official suspicion and scrutiny.

The government generally refused international community offers to assist surrendered insurgents directly but allowed some aid from the UN and international agencies as part of larger assistance programs.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Within lowland Lao society, despite wide and growing tolerance of homosexual practices, societal discrimination in employment and housing persisted, and there were no governmental efforts to address it.

Other Societal Violence or Discrimination.—There was no societal violence and no official discrimination against persons with HIV/AIDS, but societal discrimination existed. The government actively promoted tolerance of those with HIV/AIDS, and it conducted public-awareness campaigns to promote understanding toward such persons.

Section 7. Worker Rights

a. The Right of Association.—The law does not allow workers to form and join independent unions of their choice; they may form unions without previous authorization only if they operate within the framework of the officially sanctioned Federation of Lao Trade Unions (FLTU), which in turn is controlled by the LPRP. In addition the law does not permit unions to conduct their activities without government interference. Strikes are not prohibited by law, but the government's ban on subversive activities or destabilizing demonstrations and its failure to provide means to call a strike made strikes extremely unlikely, and none were reported during the year.

According to the FLTU, there were 4,610 trade unions nationwide, including in most government offices. These included 16 provincial trade unions, one municipal trade union, 36 ministerial trade unions, and 2,772 permanent trade unions. Total FLTU membership was 126,600, approximately 4 percent of the total workforce. Most FLTU members worked in the public sector.

The government employed the majority of salaried workers. Subsistence farmers made up an estimated 80 percent of the work force.

b. The Right to Organize and Bargain Collectively.—There is no right to organize and bargain collectively. The law stipulates that disputes be resolved through workplace committees composed of employers, representatives of the local labor union, and representatives of the FLTU, with final authority residing in the MLSW. The ministry generally did not enforce the law, especially in dealings with joint ventures in the private sector. Labor disputes reportedly were infrequent. According to labor activists, the FLTU needed government permission to enter factories and had to provide advance notice of such visits, rendering it powerless to protect workers who filed complaints.

The government set wages and salaries for government employees; management set wages and salaries for private business employees.

The law stipulates that employers may not fire employees for conducting trade union activities, lodging complaints against employers about law implementation, or cooperating with officials on law implementation and labor disputes, and there were no reports of such cases. Workplace committees were used for resolving complaints, but there was no information on how effective these committees were in practice.

There are no special laws or exemptions from regular labor laws in the country's export processing zone.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor except in time of war or national disaster. However, some domestic trafficking of girls for forced labor occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—By law children under age 15 may not be recruited for employment except to work for their families, provided such work is not dangerous or difficult. The MoPS and the MoJ are responsible for enforcing these provisions, but enforcement was ineffective due to a lack of inspectors and other resources. Many children helped on family farms or in shops and other family businesses, but child labor was rare in industrial enterprises. Some garment factories reportedly employed a very small number of under-age girls.

e. Acceptable Conditions of Work.—The MLSW sets the minimum wage but has no regular schedule or transparent process for doing so. In April the MLSW, in consultation with the FLTU and Lao Chamber of Commerce and Industry, set the daily minimum wage for the more than 120,000 private-sector workers at 13,385 kip (approximately \$1.60); the monthly minimum wage was 348,000 kip (\$41). Additionally, employers were required to pay 8,500 kip (\$1) meal allowance per day. These wages were insufficient to provide a decent standard of living for a worker and family. The NA, in consultation with the Ministry of Finance, increased the minimum wage for civil servants and state enterprise employees to 405,000 kip (\$47.80) per month in 2008. In addition to their minimum wage, civil servants often received housing subsidies and other government benefits. Some piecework employees, especially on construction sites, earned less than the minimum wage.

The law provides for a workweek limited to 48 hours (36 hours for employment in dangerous activities) and at least one day of rest per week. Overtime may not exceed 30 hours per month, and each period of overtime may not exceed three hours. The overtime pay rate varies from 150 to 300 percent of normal pay. The overtime law was not effectively enforced.

The law provides for safe working conditions and higher compensation for dangerous work. In case of death or injury on the job, employers are responsible for compensating a worker or the worker's family. Employers generally fulfilled this requirement in the formal economic sector. The law also mandates extensive employer

responsibility for those disabled at work, and this provision appeared effectively enforced. The MLSW is responsible for workplace inspections. Officials undertake unannounced inspections when notified of a violation of safe working standards. However, the MLSW lacked the personnel and budgetary resources to enforce the law effectively. The law has no specific provision allowing workers to remove themselves from a dangerous situation without jeopardizing their employment.

There were a number of illegal immigrants in the country, particularly from Vietnam, China, and Burma, and they were vulnerable to exploitation by employers.

MALAYSIA

Malaysia is a federal constitutional monarchy with a population of approximately 28.3 million. It has a parliamentary system of government headed by a prime minister selected through periodic, multiparty elections. The United Malays National Organization (UMNO), together with a coalition of political parties known as the National Front (BN), has held power since independence in 1957. The most recent national elections, in March 2008, were conducted in a generally transparent manner and witnessed significant opposition gains. On April 3, Najib Razak was sworn in as prime minister. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in some areas. Significant obstacles prevented opposition parties from competing on equal terms with the ruling coalition. Some deaths occurred during police apprehensions and while in police custody. The nonprofessional People's Volunteer Corps (RELA) reportedly abused refugees, asylum seekers, and illegal immigrants. Other problems included police abuse of detainees, overcrowded immigration detention centers (IDCs), use of arbitrary arrest and detention using the Internal Security Act (ISA) and three other statutes that allow detention without trial, and persistent questions about the impartiality and independence of the judiciary. The government continued to pursue the prosecution of a prominent opposition leader on politically motivated charges. The government also arrested other opposition leaders, journalists, and Internet bloggers apparently for political reasons. The civil courts continued to allow the Shari'a (Islamic law) courts to exercise jurisdiction in cases involving families that included non-Muslims. Additionally, the criminal and Shari'a courts utilized caning as a form of punishment. The government continued to restrict freedom of press, association, assembly, speech, and religion. Trafficking in persons remained a serious problem. Longstanding government policies gave preferences to ethnic Malays in many areas. Some employers exploited migrant workers and ethnic Indian-Malaysians through forced labor. Some child labor occurred in plantations.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no known politically motivated killings by the government or its agents; however, during the year local media reported that police killed 50 persons while apprehending them, down from 82 such killings in 2008.

On January 20, Kugan Ananthan, an ethnic Indian in police detention since January 15 for car theft, died. The initial postmortem listed fluid in the lungs as the cause of death. A second postmortem examination conducted by a family-appointed pathologist revealed massive injuries consistent with being beaten to death. On January 23, the attorney general classified Kugan's death as murder. Initially, 11 police officers were transferred to desk duty pending an investigation; however, on October 1, only police constable Navindran Vivekanandan, the sole ethnic Indian among the 11 police officers, was charged for the lesser crime of voluntarily causing grievous hurt to extort a confession. Navindran pled not guilty and was released on bail. A sessions court scheduled the criminal case against Navindran for February 13, 2010. Kugan's family members also filed a civil suit against the government for his death in custody, and that case was pending in the civil courts.

On July 15, Teoh Beng Hock, a political aide to a Selangor State legislative assemblyman, was taken to the Malaysian Anticorruption Commission (MACC) as a witness concerning allegations against his supervisor. On July 16, Teoh's body was found on the roof of the building wing adjacent to the MACC offices. Official postmortem examinations ruled that he died on July 16 from internal injuries sustained from a fall. Teoh had been questioned for more than eight hours. On November 21,

Teoh's body was exhumed for a second autopsy. The public inquest into the cause of Teoh's death continued at year's end.

On July 16, police arrested R. Gunasegaran, who died in custody at the Sentul police station approximately two to three hours after his arrest. An initial autopsy found that Gunasegaran died of a drug overdose. Several witnesses claimed he was beaten in police custody. At his family's request, the high court ordered a second postmortem examination and an inquest into his death. The inquest into the cause of his death was pending at year's end.

On November 8, police shot and killed five ethnic Indian youths ages 17 to 24. The police described them as members of a criminal gang who fired first; however, an outcry, particularly in the ethnic Indian community, questioned the police's "shoot-to-kill" tactics. The police denied using such tactics and defended the officers' right to defend themselves. At year's end there had been no known official inquiry into the matter.

On April 9, the high court sentenced police Chief Inspector Azilah Hadri and police Corporal Sirul Azhar Umar to death, for the 2006 murder of Altantuya Shaaribu. Their appeals were pending at year's end. In October 2008 the court acquitted political analyst Razak Baginda of abetting her murder. Altantuya's father filed a civil suit against the government, Razak Baginda, and the two police officials for 100 million ringgit (approximately \$28.6 million). The civil case was pending at year's end.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—No law specifically prohibits torture; however, laws that prohibit "committing grievous hurt" encompass torture. There were some allegations of beatings and mistreatment by RELA and immigration officials in IDCs, which continued to be administered by the Immigration Department and was supplemented by RELA for part of the year.

On January 15, seven police officers from Brickfields police district in Selangor State were charged with committing an act of "criminal intimidation" and "voluntarily causing hurt to extort confession" against B. Prabakar, who had been arrested in December 2008 in connection with a robbery. Prabakar alleged that the police beat him with a rubber hose, splashed boiling water on him, asked him to stand on a chair with a cloth around his neck, and threatened to hang him. The case was pending at year's end.

On December 6, police arrested S. Isai Kumar after a female relative lodged a police report against him. He was held for 10 days during which he alleged police stripped him nude, photographed him, assaulted him, and denied him food and medical attention during a four-day period at the Seremban police headquarters. He claimed police forced him to admit to robbery and criminal intimidation. He was released and police told him the report against him was false.

In May 2008, in response to the April 2008 beating of a Pakistani detainee by immigration officials at Lenggeng IDC, a commissioner from the Malaysian Human Rights Commission (SUHAKAM) investigated and found "evidence of torture." No further investigation was known to have been conducted.

Persons detained under the ISA commonly suffered beatings, physical and mental abuse, and other mistreatment. For example according to Amnesty International, Sanjeev Kumar, detained under the ISA in July 2007, was paralyzed and mentally unstable at the time of his release in September 2008.

In August 2008 according to press reports, two police officers from Perak State abused a 10-year-old boy while questioning him for theft. There was no information available about an investigation into this report.

Criminal law prescribes caning as an additional punishment to imprisonment for those convicted of some nonviolent crimes, such as narcotics possession, criminal breach of trust, and alien smuggling. The law prescribes up to six strokes of the cane for both illegal immigrants and their employers. Judges routinely included caning in sentences of those convicted of such crimes as kidnapping, rape, and robbery. The caning was carried out with a half-inch-thick wooden cane that could cause welts and scarring. The law exempts men older than 50 and all women from caning. Male children 10 years of age and older may be given up to 10 strokes of a "light cane."

Some states' Shari'a laws also prescribe caning; there are no exemptions for women under Shari'a. In Shari'a caning, a smaller cane is used, and the caning official cannot lift the cane above his shoulder, thus reducing the impact. Additionally, the subject is fully covered with a robe so that the cane will not touch any part of the flesh. Local Islamic officials claimed that the idea is not to injure but to make offenders ashamed of their sin so that they will repent and not repeat the offense.

Between July and September, there were four instances in which a Shari'a court sentenced persons to be caned.

On July 20, the Kuantan Shari'a High Court (Pahang State) sentenced Kartika Sari Dewi Shukarno to a 5,000 ringgit (approximately \$1,400) fine and six strokes of a cane for consuming alcohol at a hotel in Pahang State in July 2008. Kartika was the first Muslim woman to be sentenced to caning. Kartika, who pled guilty, did not appeal the sentence. By year's end the Shari'a court had not scheduled a date for the caning.

In mid-September the same Shari'a high court judge sentenced a male foreign citizen to six strokes of the cane and prison for an alcohol offense and also sentenced the Muslim waitress who served Kartika to six strokes and a fine.

In September the Selangor Shari'a High Court sentenced a couple to fines and six strokes of the cane each for the offense of "khalwat" or close physical proximity after the couple were found attempting to have unmarried sex.

Prison and Detention Center Conditions.—Prison overcrowding, particularly in facilities near major cities, remained a serious problem. In December the Home Ministry reported that the country's 31 prisons held 32,130 prisoners in locations designed to hold 32,600. According to the International Centre for Prison Studies, in mid-2008 women made up 8.3 percent of the total prison population. Local and international nongovernmental organizations (NGOs) estimated most of the country's 16 IDCs were at or beyond capacity, with some detainees held for a year or more.

NGOs and international organizations involved with migrant workers and refugees made credible allegations of inadequate food, water, medical care, poor sanitation, and prisoner abuse in the IDCs. According to the home affairs minister, all detention centers had their own standard operating procedures that were in line with international quality standards. An NGO with access to the IDCs claimed that overcrowding, deficient sanitation, and lack of medical screening and treatment facilitated the spread of disease. During the year the government allowed local NGOs with mobile medical clinics into the IDCs.

In 2008 SUHAKAM identified poor medical care as the principal reason why 1,300 detainees had died over the previous six years in IDCs, prisons, and jails. On October 1, SUHAKAM Commissioner Siva Subramaniam reiterated these statistics, noting that this was a rate of 18 deaths per month since 2003. Most of the deaths were reportedly due to communicable diseases that thrive in unsanitary and overcrowded detention facilities. Siva recommended that the IDCs observe better health standards to prevent the spread of disease.

The government does not permit prison visits by the International Committee of the Red Cross. The authorities generally did not permit NGOs and the media to monitor prison conditions. The government approved visits by SUHAKAM officials on a case-by-case basis.

The UN High Commission for Refugees (UNHCR) received access to registered refugees and asylum seekers detained in IDCs and prisons. Historically, prison and IDC officials denied the UNHCR access to unregistered asylum seekers in detention; however, since April, IDCs scheduled UNHCR visits to interview unregistered potential refugees. Through these interviews, the UNHCR secured the release of 3,645 refugees from IDCs during the year.

d. Arbitrary Arrest or Detention.—The constitution stipulates that no person may be incarcerated unless in accordance with the law. However, the law allows investigative detention to prevent a criminal suspect from fleeing or destroying evidence while police conduct an investigation. Four laws, most notably the ISA, also permit preventive detention to incarcerate an individual suspected of criminal activity or to prevent a person from committing a future crime. Such laws severely restrict, and in some cases eliminate, access to timely legal representation and a fair public trial.

Role of the Police and Security Apparatus.—The approximately 100,000-strong Royal Malaysia Police force is under the command of the inspector general of police (IGP), who reports to the home affairs minister. The IGP is responsible for organizing and administering the police force. The government has some mechanisms to investigate and punish abuse and corruption. There were NGO and media reports that security forces acted with impunity during the year.

Several NGOs conducted local surveys on government corruption and identified the police as among the country's most corrupt government organizations. During the year a Home Affairs Ministry survey noted that 70 percent of respondents had bribed police officers under duress. Reported police offenses included accepting bribes and theft. Unlike in past years, there were no known accusations of rape against police personnel.

Punishments included suspension, dismissal, and demotion. Police officers are subject to trial by the civil courts. Police representatives reported that there were disciplinary actions against police officers during the year.

The government continued to focus police reform efforts on improving salaries, quarters, and general living conditions of police officers. However, the status of other reforms, including the formation of an independent police complaints and misconduct commission, remained pending at year's end. NGOs complained that the government's reform efforts lacked transparency.

The police training center continued to include human rights awareness training in its courses. SUHAKAM conducted human rights training for police once during the year.

Security forces failed to prevent or respond to some incidents of societal violence. Minority groups complained of perceived police unwillingness to take appropriate action on August 28 to disperse a group of Muslims protesting the relocation of a Hindu temple to their residential area and of the government's immediate closing of a candle light vigil held in response by members of the Hindu community (see section 2.b.).

In recent years the Home Ministry relied primarily upon RELA to conduct raids and detain suspected illegal migrants. However, during the year NGOs and international organizations reported that RELA involvement and authority in immigration matters was reduced and that by August 1, the government had removed all RELA personnel from the IDCs. The government announced that RELA members would begin assisting the police in combating crime.

As of August 31, RELA had 586,644 members. On September 2, RELA announced plans to recruit 200,000 more members by year's end. As of December 31, RELA had increased its membership to 682,749. Although RELA's role in immigration was reduced, the government took steps to increase its overall role, specifically in assisting police with criminal matters. NGOs remained concerned that inadequate training left RELA members ill-equipped to perform their duties.

Reported abuses by RELA members included beatings, extortion, theft, pilfering items from homes, destroying individuals' UNHCR and other status documents, and pillaging refugee settlements. However, these reports were limited primarily to January through March, and unlike in previous years, there were no reports of rape involving RELA members. Reported incidents of abuse by RELA decreased over the course of the year.

In September 2008 the high court ordered RELA member Mohamed Tahir Osman to pay Maslinda Ishak, detained during a 2003 raid, 100,000 ringgit (\$28,600) damages for taking a photograph of her when she was forced to relieve herself in the truck used to transport detainees. On August 25, the Court of Appeal ordered the government to pay the fine, finding that it was vicariously liable for Tahir's acts. Tahir had earlier pled guilty for invasion of privacy and was sentenced to four months' imprisonment.

The government did not release information on how it investigated complaints against RELA members or how it administered disciplinary action. The Public Protection Authorities Act of 1948 and a 2005 Amendment to Essential Regulations give RELA members legal immunity for official acts committed in good faith.

Arrest and Detention.—The law permits police to arrest individuals for some offenses without a warrant and hold suspects for 24 hours without charge. A magistrate may extend this initial detention period for up to two weeks. Although police generally observed these provisions, a 2005 police commission report noted that police sometimes released suspects and then quickly rearrested them and held them in investigative custody. Local NGOs asserted that this practice continued. The law gives an arrested individual the right to be informed of the grounds for his arrest by the police officer making the arrest. Police must inform detainees that they are allowed to contact family members and consult a lawyer of their choice.

Police often denied detainees access to legal counsel and questioned suspects without giving them access to counsel. Police justified this practice as necessary to prevent interference in ongoing investigations, and judicial decisions generally upheld the practice. The 2005 report stated that an "arrest first, investigate later" mentality pervaded some elements of the police force and recommended that detention procedures be reviewed to prevent abuse. On some occasions law enforcement agencies did not promptly allow access to family members.

The law allows the detention of a person whose testimony as a material witness is necessary in a criminal case if that person is likely to flee. Bail is usually available for those accused of crimes not punishable by life imprisonment or death. The amount and availability of bail is determined at the judge's discretion. When bail is granted, accused persons usually must surrender their passports to the court.

Crowded and understaffed courts often resulted in lengthy pretrial detention, sometimes lasting several years. On December 16, Chief Justice Tun Zaki Azmi stated there were 900,000 cases pending in the lower courts and 91,000 in the higher courts.

Four preventive detention laws permit the government to detain suspects without normal judicial review or filing formal charges: the ISA, the Emergency (Public Order and Prevention of Crime) Ordinance, the Dangerous Drugs (Special Preventive Measures) Act, and the Restricted Residence Act.

The ISA empowers police to arrest without a warrant and hold for up to 60 days any person who acts "in a manner prejudicial to the national security or economic life of Malaysia." During the initial 60-day detention period in special detention centers, the ISA allows for the denial of legal representation and does not require that the case be brought before a court. The home minister may authorize further detention for up to two years, with an unlimited number of two-year extensions to follow. In practice the government infrequently authorized ISA detention beyond two two-year terms. However, in one case the government detained an ISA detainee for approximately seven years. Some of those released before the end of their detention period were subject to "imposed restricted conditions." These conditions limit freedom of speech, association, and travel inside and outside the country.

Even when there are no formal charges, the ISA requires that authorities inform detainees of the accusations against them and permit them to appeal to a non-judicial advisory board for review every six months. However, advisory board decisions and recommendations are not binding on the home minister, not made public, and often not shown to the detainee.

The Bar Council and several human rights NGOs have called for the repeal of the ISA, which does not allow judicial review of ISA decisions in any court, except for issues of compliance with procedural requirements.

On April 3, his first day in office, Prime Minister Najib announced that his office would conduct a comprehensive review of the ISA. Since the announcement, the Home Affairs Ministry has held closed meetings with numerous groups, including political parties and NGOs, to review the act.

On April 3, the government released 13 ISA detainees, including V. Ganabathurai and R. Kengadharan, two of the five detained Hindu Rights Action Force (HINDRAF) leaders. On May 13, the government released another 13 detainees, including M. Manoharan, P. Uthayakumar and K. Vasantha Kumar, the three remaining HINDRAF detainees. On September 16, the government released another five ISA detainees, allegedly from the Jemaah Islamiya terrorist organization. At year's end there were nine persons in detention under the ISA, including four citizens and five foreigners. According to the Home Ministry, six were allegedly involved in militant activities, including terror suspects Mas Selamat Kastari and Samsuddin Sulaiman, and the remaining three were detained for forging documents.

In July 2008 authorities arrested political opposition leader Anwar Ibrahim for alleged consensual sodomy with a former aide. In August 2008 prosecutors charged Anwar in court under the penal code for "consensual carnal intercourse against the order of nature," which carries a potential sentence of 20 years in jail. The court released Anwar on bail.

On August 11, Anwar filed an application for judicial review to disqualify the government's prosecution team on grounds of alleged bias, conflict of interest, and prosecutorial misconduct. On September 16, the trial court dismissed Anwar's petition. Anwar also challenged a certificate from the prosecution, needed before the trial can begin, which he claimed omitted facts in his favor. On November 6, the Court of Appeals rejected Anwar's application to obtain documents and DNA samples that he claimed were exculpatory. Despite official affirmations that Anwar's arrest and prosecution were not politically motivated, senior government officials made repeated public comments prejudicial to the case. The case was pending at year's end.

The government's appeal of the Kuala Lumpur High Court's 2007 decision to award former ISA detainee Abdul Malek Hussin 2.5 million ringgit (approximately \$715,000) for his arrest and torture in 1998 remained pending at year's end.

Under the Emergency Ordinance, the home minister may issue a detention order for up to two years against a person if he deems it necessary for the protection of public order, "the suppression of violence, or the prevention of crimes involving violence." A local NGO reported that in 2008 more than 1,000 individuals were detained under the Emergency Ordinance and other preventive measures. The authorities used the Emergency Ordinance on suspected organized crime figures.

On January 15, the police in Miri, Sarawak, detained Bunya Sengok, Marai Sengok, and his wife Melati Beken under the Emergency Ordinance for their alleged involvement in a series of robberies. Family members asserted that they were

arrested in a dispute with a development consortium over ancestral land. SUHAKAM condemned the use of the ordinance in this case. On March 19, police released Melati Beken, but Marai Sengok and Bunya Sengok were flown to Johor and ordered detained for two years under the ordinance at the Simpang Renggam Detention Center.

Provisions of the Dangerous Drugs Act give the government specific power to detain suspected drug traffickers without trial for up to 39 days before the home affairs minister must issue a detention order. Once the Home Affairs Ministry issues the detention order, the detainee is entitled to a hearing before a court, which has the authority to order the detainee's release. Authorities may hold suspects without charge for successive two-year intervals with periodic review by an advisory board, whose opinion is binding on the minister. However, the review process contains none of the procedural rights that a defendant would have in a court proceeding. Police frequently detained suspected narcotics traffickers under this act after courts acquitted them of formal charges. According to the National Antidrug Agency, the government detained 1,176 persons under the preventive detention provisions of the act during the first 11 months of the year, compared with 1,115 persons during all of 2008.

The Restricted Residence Act allows the home affairs minister to place individuals under restricted residence away from their homes. These persons may not leave the residential district assigned to them, and they must present themselves to police on a daily basis. As under the ISA, authorities may renew the term of restricted residence every two years. The minister is authorized to issue the restricted residence orders without any judicial or administrative hearings. The government continued to justify the act as a necessary tool to remove suspects from the area where undesirable activities were being conducted.

e. Denial of Fair Public Trial.—Three constitutional articles provide the basis for an independent judiciary; however, other constitutional provisions, legislation restricting judicial review, and additional factors limited judicial independence and strengthened executive influence over the judiciary.

The constitution does not directly vest judicial powers in the courts but rather provides that Parliament confers judicial powers. The constitution also confers certain judicial powers on the attorney general, including the authority to instruct the courts on which cases to hear, the power to choose venues, and the right to discontinue cases. The attorney general controlled and directed all criminal prosecutions and assumed responsibility for sessions court judge and magistrate judicial assignments and transfers. The Judicial Appointments Commission, created in December 2008, makes appointments of judges to the high court, Court of Appeal, and the Federal Court. Session and magistrate court judges report to the Attorney General's Office. The prime minister's recommendation, done in conjunction with the commission, determined senior judge appointments, subject to concurrence by the Conference of Rulers, the traditional Malay rulers of nine states.

Members of the bar, NGO representatives, and other observers expressed serious concern about significant limitations on judicial independence, citing a number of high-profile instances of arbitrary verdicts, selective prosecution, and preferential treatment of some litigants and lawyers.

In May 2008 a royal commission, which had been formed to investigate the 2002 videotape of a purported conversation in which a senior lawyer and senior judge discussed arrangements for assigning cases to "friendly" judges, released its findings and determined that former prime minister Mahathir, UMNO Secretary General Tengku Adnan, and former chief justice Eusoff Chin among others were involved in manipulating judicial appointments and improperly influenced the promotion of judges. On June 16, in a written reply to opposition Democratic Action Party (DAP) parliamentarian Karpal Singh's question on why there was no follow-up on the commission's findings, a minister in the Prime Minister's Department explained that the cases were closed for lack of evidence.

Sessions courts hear minor civil suits and criminal cases. High courts have original jurisdiction over all criminal cases involving serious crimes. Juvenile courts try offenders below age 18. A special court tries cases involving the king and the sultans. The Court of Appeal has appellate jurisdiction over high court and sessions court decisions. The Federal Court, the country's highest court, reviews Court of Appeal decisions.

Indigenous groups in the states of Sarawak and Sabah have a system of customary law to resolve matters such as land disputes between tribes. Although rarely used, *penghulu* (village head) courts may adjudicate minor civil matters.

Shari'a, administered by state authorities through Islamic courts, bind all Muslims, most of whom are ethnic Malays. The laws and the degree of their enforcement varied from state to state.

The armed forces have a separate system of courts.

Trial Procedures.—English common law is the basis for the secular legal system. The constitution states that all persons are equal before the law and entitled to equal protection of the law. Trials are public, although judges may order restrictions on press coverage. Juries are not used. Defendants have the right to counsel at public expense if requested by an accused individual facing serious criminal charges. Strict rules of evidence apply in court. Defendants may make statements for the record to an investigative agency prior to trial. Limited pretrial discovery in criminal cases impeded defendants' ability to defend themselves. Defendants confronted witnesses against them and presented witnesses and evidence on their behalf, although judges sometimes disallowed witness testimony. Government-held evidence was not consistently made available. Attorneys are required to apply for a court order to obtain documents covered under the Official Secrets Act. Defendants are presumed innocent until proven guilty and may appeal court decisions to higher courts. The law limits a defendant's right to appeal in some circumstances. The government stated that the limits expedite the hearing of cases in the upper courts, but the Bar Council declared that they impose excessive restrictions on appeals.

In firearm and certain national security cases, a lower standard for accepting self-incriminating statements by defendants as evidence is in effect. Regulations also allow the authorities to hold an accused for an unspecified time before making formal charges.

In criminal cases police sometimes used tactics that impaired a defendant's due process rights. For example, police used raids and document seizures to harass defendants.

Shari'a courts do not give equal weight to the testimony of women. Many NGOs complained that women did not receive fair treatment from Shari'a courts, especially in matters of divorce and child custody.

Political Prisoners and Detainees.—The government released P. Uthayakumar, M. Manoharan, R. Kenghadharan, Ganabatirau, and T. Vasantha Kumar, key leaders of HINDRAF, who were arrested and detained under the ISA for organizing protests in 2007 against the alleged marginalization of ethnic Indians.

Civil Judicial Procedures and Remedies.—The structure of the civil judiciary mirrors that of the criminal courts. A large case backlog often resulted in delayed provision of court-ordered relief for civil plaintiffs. The government and government officials can be sued in court for alleged violations of human rights.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—Various laws prohibit arbitrary interference with privacy rights; however, authorities infringed on citizens' privacy rights in some cases. Provisions in the security legislation allow police to enter and search without a warrant the homes of persons suspected of threatening national security. Police also may confiscate evidence under these provisions. Police used this legal authority to search homes and offices; seize computers, books, and papers; monitor conversations; and take persons into custody without a warrant. The government monitored e-mails sent to Internet blog sites and threatened to detain anyone sending content over the Internet that the government deemed threatening to public order or security.

The Federal Islamic Development Department's (JAKIM) guidelines authorize JAKIM officials to enter private premises without a warrant if they deem swift action necessary to conduct raids on premises where it suspects Muslims are engaged in offenses such as gambling, consumption of alcohol, and sexual relations outside marriage.

In corruption investigations, after a senior police official involved in the investigation submits a written application, the law empowers a deputy public prosecutor to authorize interception of any messages sent or received by a suspect. Information obtained in this way is admissible as evidence in a corruption trial. Security forces have broad authority to install surreptitiously surveillance devices on private property. In addition, public prosecutors may authorize police to intercept postal and telecommunications messages if a prosecutor judges these likely to contain information regarding a terrorist offense. Intercepted communications from such efforts are admissible in court.

The law permits the Home Ministry to place criminal suspects under restricted residence in remote districts away from their homes for two years.

The government bans membership in unregistered political parties and organizations.

Certain religious issues posed significant obstacles to marriage between Muslims and adherents of other religions.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of speech and of the press; however, in practice the government restricted freedom of expression and intimidated journalists into practicing self-censorship. According to the government, it imposed restrictions on the media to protect national security, public order, and friendly relations with other countries.

The law provides that legislation “in the interest of security (or) public order” may restrict freedom of speech. For example, the Sedition Act prohibits public comment on issues defined as sensitive, such as racial and religious matters. The government used the ISA, the Sedition Act, the Official Secrets Act, the Printing Presses and Publications Act, criminal defamation laws, and other laws to restrict or intimidate political speech. Nevertheless, individuals frequently criticized the government publicly or privately. However, on some occasions the government retaliated against those who criticized it.

In addition, the election law makes it an offense for a candidate to “promote feelings of ill will, discontent, or hostility.” Violators could be disqualified from running for office.

On March 17, opposition DAP parliamentarian Karpal Singh was charged under the Sedition Act for comments at a February 6 media conference that the sultan of Perak could be sued for his role in the removal of a state’s chief minister. Singh’s comments followed Sultan Azlan Shah’s decision to dismiss the opposition Perak chief minister and appoint the federal ruling party chief minister. According to the Sedition Act, any act that provokes hatred, contempt, or disaffection against a state ruler is considered sedition, a crime punishable by up to three years in prison or a fine of up to 5,000 ringgit (approximately \$1,400) or both. The case was pending at year’s end.

On March 29, the government suspended two opposition political party newspapers, Harakah of the opposition Islamic Party of Malaysia (PAS) and Suara Keadilan of the Peoples Justice Party. The Home Ministry asserted that these newspapers repeatedly published stories that were “wrong, sensational, and sensitive in nature.” On April 3, the day he took office, Prime Minister Najib lifted the sanctions against both newspapers.

In 2007 the sessions court sentenced HINDRAF leader P. Uthayakumar under the Sedition Act for publishing a letter addressed to British Prime Minister Gordon Brown. The case was still pending at year’s end.

The government directly and indirectly censored the media by using the Printing Presses and Publications Act, which requires domestic and foreign publications to apply annually to the government for a permit, making publication of “malicious news” a punishable offense and empowering the home affairs minister to ban or restrict publications believed to threaten public order, morality, or national security. It also prohibits court challenges to suspension or revocation of publication permits. According to the government, these provisions ensured that the media did not disseminate “distorted news” and were necessary to preserve harmony and promote peaceful coexistence in a multiracial country. During the year the ministry continued to review, censor, and confiscate many foreign publications. Since 2000 the Home Ministry banned a total of 397 books whose titles contained words that could “jeopardize public order” or were obscene. Three out of the 22 books banned during the year included *The Jewel of Medina*, *The Trouble With Islam Today*, and *Ibrahim and Sarah*. Home ministry officials added that individuals involved in the printing, importing, publishing, selling, and distributing of these banned titles can be charged under the Printing, Presses, and Publishing Act of 1984, which carries a jail term of up to three years and a fine up to 20,000 ringgit (approximately \$5,700).

Parties in the ruling coalition owned or controlled a majority of shares in two of the three major English and all Malay daily newspapers. Businesspersons well connected to the government and ruling parties owned the third major English-language newspaper and all four major Chinese-language newspapers.

Journalists were subject to harassment and intimidation due to their reporting. For example, on November 14, the Home Ministry issued a warning letter to the Tamil-language daily *Tamil Nesan* over its reporting on the killing of five suspected armed robbers by the police. The ministry accused the newspaper of playing up racial sentiments in its coverage of the police shooting in which all five suspects—all Malaysian Indians—were killed (see section 1.a.). Unlike in past years there were no instances of journalists being subject to arrest.

Criminal defamation is punishable by a maximum of two years in jail, a fine, or both. This, along with the government power over annual license renewal and other policies, inhibited independent or investigative journalism and resulted in extensive self-censorship. Nonetheless, the English-, Malay-, and Chinese-language press sometimes provided alternative views on sensitive issues, as did bloggers.

The government continued to censor the media by controlling news content, requiring the annual renewal of publishing permits, and limiting circulation to an organization's members only. Printers often were reluctant to print publications that were critical of the government for fear of reprisal. However, publications of opposition parties, social action groups, unions, and other private groups actively covered opposition parties and frequently printed views critical of government policies.

Radio and television stations were as restricted as the print media and were predominantly supportive of the government. News of the opposition was tightly restricted and reported in a biased fashion. Opposition party leaders alleged that during the seven by-elections held since the March 2008 national election the mainstream media provided minimal coverage of their candidates, intensely negative reporting about their parties' senior figures, and extensive reporting on the ruling party candidates.

The Internet and television faced no such restrictions, and PAS, among others, continued daily Internet television broadcasts.

Television stations censored programming in line with government guidelines. The government banned some foreign newspapers and magazines and occasionally censored foreign magazines or newspapers, most often for sexual content. The government maintained a "blacklist" of local and foreign performers, politicians, and religious leaders who were not allowed to appear on television or broadcast on radios.

On May 13, the Internet news portal Malaysiakini reported that Media Prima, which has control over the country's four free private television stations, had video footage of Perak Assembly Speaker V. Sivakumar being dragged from the speaker's chair on May 7. However, according to Malaysiakini, senior managers of Prima Media directed their staff not to broadcast the footage or video of the subsequent arrests of nearly 100 individuals, including opposition parliamentarians and state representatives. The footage subsequently was shown on television and was available on the Internet.

On July 5, Florence Looi, host and producer of the program Point of View, asked her guests to rate the performance of Prime Minister Najib Razak during his first 100 days in office. One of her guests, an editor with the online news portal Malaysian Insider, rated the performance as poor. On July 13, online news portal Merdeka Review reported that the program's private television station, NTV7, which is a Media Prima station, canceled the show and reassigned Looi to field reporting. NTV7 also reportedly issued Looi a warning letter accusing her of having "breached editorial policy." On July 15, the Center for Independent Journalism issued a statement expressing concern about Looi's reassignment and calling the warning letter unjustified.

The government generally restricted remarks or publications, including books, that it judged might incite racial or religious disharmony.

Internet Freedom.—Although there were no government restrictions on access to the Internet, during the year the government blocked access to some Web sites and arrested several prominent bloggers for comments that were critical of the government. Internet access was widely available, except in East Malaysia, where the Internet was often not available beyond urban centers. According to International Telecommunication Union statistics for 2008, approximately 55.8 percent of the country's inhabitants used the Internet.

Criminal defamation and preventive detention laws generated some self-censorship from local Internet content sources such as bloggers, Internet news providers, and NGO activists. In September 2008 police detained Raja Petra Kamaruddin, a blogger and critic of the ruling government, under the ISA for writing seditious articles in his blog, which the government claimed posed a threat to national security. He was released in November 2008 after the high court ruled that his detention was unconstitutional. On April 23, the court issued an arrest warrant for Raja Petra after he failed to appear at his criminal sedition trial. These charges arose from his April 2008 article "Let's Send the Altantuya Murderers to Hell," which he posted on Internet news portal, Malaysia Today, which alleged that then deputy prime minister Najib was involved in the 2006 death of a Mongolian model. On May 26, the court issued a second warrant of arrest after Raja Petra's failure to turn up for his criminal defamation trial arising from his June 2008 sworn his statutory declaration implicating Prime Minister Najib's wife, Rosmah Mansor, in the murder of Altantuya Shaaribu. In his blog, Raja Petra wrote that he was in self-imposed exile. On November 13, the sessions court granted Raja Petra a discharge not amounting to an acquittal in his criminal defamation suit because police could not locate him. However, the government retained the right to charge him upon his return.

On March 14, the Sessions Court Kuala Lumpur charged six persons under the Communications and Multimedia Act, for insulting the Sultan of Perak on blogs or other internet postings. The blogs related to the Perak political crisis following the

takeover by the BN on February 5. One blogger pled guilty and was fined 10,000 ringgit (approximately \$2,850). The remaining five pled not guilty and at year's end their trials were pending.

The Communications and Multimedia Act requires certain Internet and other network service providers to obtain a license. Previously the government stated that it did not intend to impose controls on Internet use but that it would punish the "misuse" of information technology. The act permits punishment of the owner of a Web site or blog for allowing content of a racial, religious, or political nature that a court deems offensive.

On September 4, online news portal Malaysia Today reported that the Malaysian Communications and Multimedia Commission (MCMC) directed Malaysiakini to remove from its Web site two videos showing Muslim protestors desecrating a severed cow-head during an August 28 demonstration (see section 2.b.). On September 10, seven officers from the MCMC entered Malaysiakini's offices demanding the original tapes of the August 28 protest. The MCMC team copied hard drives, photographed the hard drives' serial numbers, and questioned Malaysiakini staff. The MCMC stated the investigation was the result of the offensive videos posted on Malaysiakini's Web site.

On October 1, the Ministry of Information, Communication, and Culture denied allegations that the MCMC had abused its power in its Internet crackdown. The MCMC allegedly had closed down certain Web sites in September and used strong-arm tactics against Malaysiakini. Denying the allegation, the ministry claimed there was a technical disruption, which resulted in the Web sites being temporarily inaccessible.

Academic Freedom and Cultural Events.—The government placed some restrictions on academic freedom, particularly the expression of unapproved political views, and enforced restrictions on teachers and students who expressed dissenting views. The government continued to require that all civil servants, university faculty, and students sign a pledge of loyalty to the king and the government. Opposition leaders and human rights activists claimed that the government used the loyalty pledge to restrain political activity among civil servants, academics, and students.

Although faculty members sometimes were publicly critical of the government, there was clear self-censorship among public university academics whose career advancement and funding depended on the government. Private institution academics practiced self-censorship as well, fearing that the government might revoke the licenses of their institutions. The law also imposes limitations on student associations and on student and faculty political activity.

The government has long stated that students should be apolitical, and it used that assertion as a basis for denying political parties access to student forums. According to student leaders, academic authorities sometimes expelled or fined students who signed antigovernment petitions. School authorities did not restrain propagation of government views on controversial issues on school campuses.

During the year the government censored and banned at least one film for profanity, nudity, sex, violence, and certain political and religious content. On September 30, the home ministry announced a ban on the movie *Bruno*, because it contained sexually explicit scenes, vulgar language, nudity, and belittled Christianity. Although the government allowed art-house foreign films at local film festivals, sexual content was manually censored at the time of showing by blocking the screen until the concerned scene was over.

The youth wing of the PAS protested against singers and groups it considered obscene and not in accordance with Islamic values. The government responded by canceling or placing conditions on performances by some international performers. The PAS-led Kedah State government continued its policy of issuing entertainment licenses to female artists only for concerts for female audiences. The state government also maintained a blanket ban on rock, reggae, pop, and dangdut (an Indonesian style of music) concerts, which it claimed could have a "negative impact" on youth.

On August 26, the Ministry of Information, Communications, and Culture initially announced that Muslims were banned from attending a Black Eyed Peas' concert in Kuala Lumpur because it was sponsored by the Guinness Brewing Company. On September 1, the Ministry reversed the decision and allowed Muslims to attend. The band performed, but alcohol sales were restricted to fenced-off areas with signs warning that Muslims were not permitted to enter.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The constitution states that all citizens have "the right to assemble peaceably and without arms"; however, the government placed significant restrictions on this right

through use of the Public Order Ordinance and the Police Act. The ordinance restricts public assemblies that could damage security and public order, while the act requires police permits for all public assemblies except for workers on picket lines. The act defines a public assembly as a gathering of five or more persons.

The decision to grant a permit rests with the district police chief; however, senior police officials and political leaders influenced the granting or denial of some permits. Police granted permits routinely to government and ruling coalition supporters but used a more restrictive approach with government critics, opposition parties, NGOs, and human rights activists.

During the year there were several reports that the government used tear gas and chemically laced water cannons to breakup rallies.

On May 5, police arrested Wong Chin Huat, a political scientist and activist with Coalition for Free and Fair Elections, under the Sedition Act. Wong promoted a demonstration entitled "1BlackMalaysia," a play on Prime Minister Najib's "1Malaysia" campaign promoting racial and religious harmony in Malaysia, to protest the BN's takeover of the Perak State government. On May 7, police arrested 69 persons for illegal assembly for participating in the demonstration. They were released the following day.

On May 7, in response to the arrests, a group of Wong's supporters held a candlelight vigil at the Brickfield's police station where Wong had been detained. Authorities arrested 14 members of the group for illegal assembly. Police arrested five lawyers from the Bar Council, who had gone to the police station to render legal assistance, on the same charge. Wong, the five lawyers, and the 14 others were released on May 8. The police subsequently dropped all charges.

On August 1, the NGO Abolish ISA Movement, backed by the opposition coalition People's Alliance (PR), organized an anti-ISA rally in Kuala Lumpur. According to local media reports, approximately 25,000 protesters participated. Police used tear gas and chemically laced water to disperse the protesters. Police arrested more than 600 persons, but all were released the following day.

On August 28, 50 Muslim residents from Selangor protested the relocation of a Hindu temple to their residential area by carrying a severed cow's head to the front gate of the Selangor State government office. The protesters took turns stepping on the cow-head and threatened bloodshed in the name of Islam if the government relocated the temple to their neighborhood. On September 9, the sessions court charged six persons with sedition as well as the charge of wounding the Hindu religion because they had desecrated a cow, an animal sacred to Hindus. All six pled not guilty and were released on bail. The six were then brought to a magistrate's court to face a charge of participating in an illegal assembly, under the Police Act. The judge released all six on bail. The case was pending at year's end.

On September 4, Police Inspector General Tan Sri Musa Hassan issued a warning against attending a candlelight vigil scheduled for September 5 in protest of the August 28 demonstration, stating that the assembly was illegal and action would be taken against those who took part. On September 5, police arrested 16 persons for attempting to join the peaceful protest. On September 6, the police released all 16 without pressing criminal charges.

At year's end the cases of the nine persons arrested for participating in an assembly marking International Human Rights Day 2007 and the 17 members of the Coalition for Clean and Fair Elections who had been arrested in 2007, were still pending.

Freedom of Association.—The constitution provides for the right of association; however, the government placed significant restrictions on this right, and certain statutes limit it. Under the Societies Act, only registered organizations of seven or more persons may function as societies. The government sometimes refused to register organizations or imposed conditions when allowing a society to register. The government prohibited the Communist Party and its affiliated organizations from registering because they allegedly posed a national security threat. In August 2008 the government approved the registration of the Socialist Party of Malaysia, which it had blocked since 1999. The government has the power to revoke the registration of an existing society for violations of the act. Unlike in prior years, the government did not use this power against political opposition groups.

Some human rights and civic society organizations expressed difficulty in obtaining government recognition as an NGO; as a result some NGOs were registered as companies, which presented legal and bureaucratic obstacles to raising money to support their activities. Some NGOs also reported that the government monitored their activities.

The Universities and University Colleges Act also restricts freedom of association. This act mandates university approval for student associations and prohibits student associations and faculty members from engaging in political activity. Many stu-

dents, NGOs, and opposition political parties called for the repeal or amendment of the act. A number of ruling coalition organizations and politicians also supported reexamination of the act, but the government maintained that the act still was necessary. In December 2008 Parliament amended the act to allow students to be members of organizations outside the university.

c. Freedom of Religion.—The constitution provides for freedom of religion; however, the constitution and the government placed some restrictions on this right. The constitution defines all ethnic Malays as Muslims at birth and stipulates that Islam is the “religion of the Federation.” The government significantly restricted the practice of Islamic beliefs other than Sunni Islam. Article 11 of the constitution states, “Every person has the right to profess and practice his religion,” but it also gives state and federal governments the power to “control or restrict the propagation of any religious doctrine or belief among persons professing the religion of Islam.”

Civil courts continued to cede authority to Shari’a courts on cases concerning conversion from Islam and certain areas of family law involving disputes between Muslims and non-Muslims. Shari’a courts ordered some Muslims attempting to convert to other religions to undergo mandatory religious reeducation classes.

On March 11, K. Patmanathan converted from Hinduism to Islam and changed his name to Mohammed Ridzuan Abdullah. On April 12, he converted his three children, ages 12, 11, and one, to Islam without his Hindu wife’s knowledge or consent. A Shari’a court in Perak State awarded custody of the children to Patmanathan. Although on April 24 the high court granted his wife, Indira Ghandi, interim custody of the three children pending the court’s decision, Patmanathan still had custody of their youngest child. On April 22, the cabinet decided that when one spouse converts to another faith, the children of the couple should be brought up in the common faith at the time of the marriage. The cabinet further stated that the proper venue for settling such disputes is the civil courts not the Islamic courts. Muslim NGOs and PAS condemned the cabinet decision, claiming that it contradicted both the federal constitution and Islam. On June 29, the Conference of Rulers asked for the views of the respective state religious councils on child conversion issues. Because Islam is considered a state matter and the sultans are the head of Islam in their respective states, their decision effectively negated the cabinet decision. At year’s end the situation remained unresolved.

Non-Muslims, who constitute approximately 40 percent of the population and include large Buddhist, Christian, Hindu, and Sikh communities, were free to practice their religious beliefs with few restrictions. According to the government, it allocated 428 million ringgit (approximately \$125.9 million) to build Islamic places of worship and 8.1 million ringgit (\$2.4 million) to build Christian, Buddhist, Hindu, and other minority religions’ places of worship between 2005 and the end of 2008.

The Registrar of Societies, under the Home Ministry, registers religious organizations. Registration enables organizations to receive government grants and other benefits. The government did not recognize some religious groups such as Al Arqam, which was declared deviant and banned in 1994; as such these groups sometimes registered themselves under different names as businesses under the Companies Act.

The government maintained that views held by “deviant” groups endangered national security. According to the JAKIM Web site, the government identified and prohibited to Muslims 56 deviant teachings. They included Ahmadiyya, Islamailiah, Shi’a, and Baha’i teachings. The government asserted that “deviationist” teachings could cause divisions among Muslims. Religious authorities, with the consent of a Shari’a court, arrested and detained members of groups deemed “deviationist” in order to “rehabilitate deviants” and return them to the “true path of Islam.”

The religious affairs minister stated that members of these groups were subject to prosecution, detention under the ISA, or rehabilitation. Neither the government nor religious authorities provided data on the number of persons subjected to prosecution or rehabilitation.

The government continued to monitor the activities of the Shi’a minority, and state religious authorities reserved the right to detain Shi’a followers under the ISA as members of a “deviant sect.”

The Selangor Islamic Affairs Department continued efforts to stop the spread of the banned al-Arqam Islamic group. The Home Ministry continued to investigate the group as a “threat to national security.” Authorities closely monitored the group.

On September 16, the Selangor Islamic Religious Department arrested Abdul Kahar Ahmad, a self-proclaimed prophet, for alleged deviant teachings. The Selangor Shari’a High Court issued a detention order against Abdul Kahar. On September 24, Abdul Kahar pleaded guilty to five charges of deviationist teachings, including blasphemy and spreading false belief and he asked those who followed his

teachings to repent. On October 21, the court sentenced him to 10 years' imprisonment, a fine of 16,500 ringgit (approximately \$4,710), and six strokes of the cane.

The government generally respected non-Muslims' right of worship; however, state governments have authority over the building of non-Muslim places of worship and the allocation of land for non-Muslim cemeteries. State authorities sometimes granted approvals for building permits very slowly. Minority religious groups reported that state governments sometimes blocked construction using restrictive zoning and construction codes.

In practice Shari'a, as interpreted in the country, does not permit Muslims, born into Islam, to convert to another religion. Shari'a courts routinely denied requests to convert from Islam.

The law strictly prohibits non-Muslims from proselytizing Muslims; proselytizing of non-Muslims faced no legal obstacles.

According to the Malaysian Consultative Council of Buddhists, Christians, Hindus, Sikhs, and Taoists, the government continued to restrict visas for foreign clergy under the age of 40 to inhibit "militant clergy" from entering the country. While representatives of non-Muslim groups did not sit on the immigration committee that approved visa requests for clergy, the committee asked the consultative council for its recommendations.

Religious education is compulsory for Muslim children and follows a government-approved curriculum. Muslim civil servants are required to attend Islamic religious classes taught by government-approved teachers.

The government generally did not ban distribution in peninsular Malaysia of Malay-language translations of the Bible, Christian tapes, and other printed materials, but it restricted distribution and required "Not for Muslims," be stamped on all Malay-language materials. The distribution of Malay-language Christian materials faced few restrictions in the eastern states of Sabah and Sarawak. During the year the government banned books and publications on Islam alleged to undermine the faith of Muslims.

The government generally restricted remarks or publications that might incite racial or religious disharmony. This included some statements and publications critical of religions, especially Islam. The government also restricted the content of sermons at mosques. In recent years both the government and the opposition party PAS have attempted to use mosques in the states they control to deliver politically oriented messages. Several states attempted to ban opposition-affiliated imams from speaking at mosques.

Some religious minorities have complained that the government undermined their rights in deference to the status of Islam.

Maintaining that the use of Allah as the translation for God by Christians and in Christian literature could confuse the country's Muslims and draw them to Christianity, the government banned the use of the word Allah in the Catholic Herald in 2007. Ten of the country's 13 states issued fatwas (an edict issued by a religious authority) prohibiting the use of Allah as a translation for God in non-Islamic contexts. During the year customs officials confiscated 15,000 Malay-language Bibles for use of the word Allah. On December 31, in response to a suit by the Catholic Herald, the high court ruled against the government's ban on non-Muslims' use of Allah. The government noted that it would appeal the decision. Earlier, on December 16, the government approved The Herald's publishing permit for 2010.

According to some women's rights advocates, women were subject to discriminatory interpretations of Shari'a and inconsistent application of the law from state to state.

In addition to the existing restrictions on personal attire imposed upon Muslim women working in retail outlets and restaurants requiring headscarves and allowing only faces and hands to be exposed, the Kelantan municipal council forbade Muslim women working in food outlets and business premises from wearing high heels and lipstick while at work.

The states' religious police continued to conduct raids on private homes, nightclubs, and other locations during the year to search for Muslims engaged in offenses such as gambling, consumption of alcohol, dressing immodestly, and engaging in sexual relations outside marriage. The government provided no statistics regarding the raids.

On September 13, PAS Youth Deputy Chief Azman Shapawi announced the party's plan to ban the sale of alcohol in Muslim majority areas in PR-held states. The announcement drew criticisms and widespread attention. On September 15, PR's leader Anwar Ibrahim and Selangor Chief Minister Khalid Ibrahim reiterated that the state government was not planning to ban the sale of alcohol.

Societal Abuses and Discrimination.—Political rhetoric using religion raised tensions among different religious groups but did not result in violence. No reliable es-

time of the country's Jewish population was available, and there were no locally based Jewish communities or synagogues. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice, although there were some restrictions. The eastern states of Sabah and Sarawak controlled immigration and required citizens from peninsular Malaysia and foreigners to present passports or national identity cards for entry. The government provided some cooperation to the UNHCR and generally did not impede other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

By law anyone entering the country without appropriate documentation is considered illegal and faces mandatory imprisonment for a maximum of five years, a fine not to exceed 10,000 ringgit (approximately \$2,850), or both, and mandatory caning not to exceed six strokes. In June the government stated that it had sentenced 47,914 migrants to be caned for immigration offences since amendments to its Immigration Act came into force in 2002, and at least 34,923 migrants had been caned between 2002 and 2008, according to the country's prison department records.

The government regulated the internal movement of provisionally released ISA detainees. The government also used the Restricted Residence Act to limit movements of those suspected of criminal activities.

Citizens must apply for government permission to travel to Israel.

The constitution provides that no citizen may be banished or excluded from the country. In June 2008, however, Chin Peng, the former leader of the communist insurgency, lost his bid to return to Malaysia when the Court of Appeal upheld an earlier ruling compelling him to show identification papers proving his Malaysian citizenship, forcing him to continue to live in exile in Thailand.

Protection of Refugees.—The country is not a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and its laws do not provide for the granting of asylum or refugee status. The government has not established a system for providing protection to refugees. The government did not grant refugee status or asylum. In practice the government did not provide protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government generally did not deport individuals registered by the UNHCR and being processed for resettlement to third countries.

The government continued to deport some refugees and asylum seekers but allowed certain refugees and persons of concern to remain, pending resettlement to other countries. The government generally did not distinguish between asylum seekers and illegal immigrants and detained them in the same immigration detention centers. Beginning in April the government provided preferential treatment to those individuals carrying a UNHCR card.

There were an estimated three million foreign nationals in the country, of whom one million were illegal and undocumented. Of this latter group, approximately 90 percent were from Burma with Chin and Rohingya being most numerous, and sizeable groups of Kachin, Karen, and Mon. Additionally, 61,000 Filipino Muslims who fled the Moro insurgency in the 1970s were reportedly living in the country.

During the year the UNHCR registered 75,617 persons of concern in the country, 17,951 of whom were children and more than 90 percent were Burmese. The majority of illegal migrants worked in construction, restaurants, plantations, and garment factories, as well as the sex industry.

The government provided access to health care for refugees with UNHCR cards at a discounted foreigner's rate; however, the costs generally were beyond their means. Mobile clinics run by NGOs existed, but access was limited.

Refugees had no access to formal education and although there were schools run by NGOs and ethnic communities, opportunities for schooling were limited by a lack of resources and qualified teachers.

In recent years there were many reports from NGOs, international organizations, and civil society groups alleging that immigration officials were involved in the trafficking of Burmese refugees from IDCs to Thailand, where some refugees were sold into slavery (see section 6, Trafficking in Persons). NGOs and international organizations reported that since April, allegations of abuse of power by RELA decreased. However, RELA continued to conduct raids targeting illegal migrant communities

and detained refugees and asylum seekers along with allegedly illegal migrants. According to local NGOs and international organizations, IDCs now allow those with the UNHCR documents access to the UNHCR while in detention. Refugees with UNHCR cards occasionally were arrested during the raids but were released after the authorities were satisfied with the documents. Since April the authorities also provided UNHCR access to potential refugees without UNHCR registration cards as well as to all Burmese detainees in the IDCs to verify whether they were asylum seekers.

Although most asylum seekers traveled to Kuala Lumpur for determinations, the UNHCR conducted mobile registrations in areas with high concentrations of refugees because the UNHCR did not maintain a presence at the country's border. During the year the UNHCR listed 10,267 persons as asylum seekers and 65,350 as refugees, approximately 92 percent of whom were Burmese citizens.

During the year the UNHCR submitted 10,228 refugees to third countries for resettlement consideration. Third countries accepted and resettled 7,202 refugees as of December 22. The remaining refugees remained at risk of detention and deportation by immigration officials.

During the year UNHCR staff members conducted numerous visits to various prisons and IDCs located throughout the country to provide counseling and support to its persons of concern and ensure legal representation.

NGOs reported that detention facilities were overcrowded, unsanitary, and lacked adequate medical facilities (see section 1.c.).

Stateless Persons.—Citizenship is derived from one's parents (*jus sanguinis*). NGO estimates of the number of stateless persons ranged from several thousand to as many as 30,000. A foreign government estimated that approximately 10 to 20 percent of the 60,000 illegal immigrants and persons of concern living in Sabah were stateless children born in Sabah. Government officials denied stateless persons access to education, health care, and the right to own property.

Some persons were stateless because the government refused to register their birth due to inadequate proof of their parents' marriage. Interfaith marriages not recognized by the government sometimes resulted in undocumented, *de facto* stateless children.

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

The law provides citizens the right to change their government peacefully, and citizens formally exercised this right in practice through periodic elections based on universal suffrage; however, while votes generally were recorded accurately, there were irregularities that affected the fairness of elections, and this right was abridged in practice.

Elections and Political Participation.—Opposition parties were unable to compete on equal terms with the governing BN coalition, led by the ethnic Malay UMNO party, which has held power at the national level since independence in 1957, because of significant restrictions on campaigning, freedom of assembly and association, and access to the media. Nevertheless, opposition candidates campaigned actively, and in the most recent national elections, held in March 2008, the opposition parties captured 82 of 222 parliamentary seats and 198 of 505 state assembly seats, winning control of five out of 13 state governments, and capturing 49 percent of the popular vote nationwide. For the first time since 1969, the opposition's electoral success denied the ruling coalition a two-thirds majority in Parliament, blocking the government's ability to amend the constitution at will. The opposition parties won seven of the eight local by-elections since the March 2008 general election.

On February 5, the BN coalition regained control of Perak, one of the five states won by the opposition PR coalition, when three PR state legislative assembly members declared support for the BN. The Sultan of Perak dismissed the opposition-controlled state government and appointed a BN state government. The ousted PR chief minister, Mohammad Nizar Jamaluddin, filed a suit challenging the constitutionality of the sultan's action. On May 11, the high court ruled in favor of Mohammad Nizar, declaring that the sultan could not dismiss the chief minister because the chief minister and the executive council were answerable to the state assembly and no one else. On May 22, the Court of Appeal overturned the high court decision and ruled in favor of the sultan. At year's end Nizar's appeal of the Court of Appeal's decision was pending.

On May 7, the Perak state assembly met for the first time since the BN political takeover on February 5. Both the BN and PR attempted to present their own chief minister and their own assembly speaker. Each side attempted to set the agenda and pass motions without the participation of the other side. The stalemate ended when plainclothes police entered the chambers and dragged away PR Speaker V.

Sivakumar. After the police removed Sivakumar, the BN took control of the assembly. Outside the assembly building, police arrested 64 PR supporters, including five members of Parliament (MPs) and five state representatives from outside Perak. Most were released the same day. The BN maintained control of Perak while these issues were pending in the courts.

In September 2008 police detained MP Teresa Kok, a senior Selangor State cabinet minister, and senior member of the opposition Democratic Action Party, under the ISA for “causing tension and conflict among races.” Kok was released after seven days in detention. Subsequently, in October 2008 the Malay-language newspaper *Utusan* published a fictional article condoning the assassination of a female Chinese politician who supported anti-Malay policies. Kok filed a lawsuit against the newspaper in December 2008, claiming the article was a veiled smear campaign against her that endangered her life. At year’s end the lawsuit was pending. On October 1, an anonymous person left a death threat against Kok in a comment region on her blog.

Political parties could not operate without restriction or outside interference. The lack of equal access to the media was one of the most serious problems for the opposition in the March 2008 national elections and in the subsequent by-elections. Opposition leaders also claimed that the election commission was under government control and lacked the independence needed to carry out its duties impartially. There were numerous opposition complaints of irregularities by election officials during the campaign; however, most observers concluded that they did not substantially alter the results. NGOs and opposition party leaders lodged allegations of illegally registered “phantom” voters, reportedly brought in from other districts to vote in tightly contested districts; inflated voter rolls; nonregistered voters using fictitious names or the names of dead voters still listed on the voter rolls; and noncitizens registered to vote.

The constitution states that parliamentary constituencies should have approximately equal numbers of eligible voters; however, in practice the numbers varied significantly. For example, the Putra Jaya constituency had 6,606 voters, while in Kuala Lumpur, the Seputih constituency had 76,891 voters. In Perak, Gopeng had 74,344 voters compared with Lenggong, with only 23,223 voters. Each of these constituencies had one MP.

Over the years power increasingly has been concentrated in the prime minister, and Parliament’s function as a deliberative body has deteriorated. Parliament rarely amended or rejected government-proposed legislation and did not give legislation proposed by the opposition serious consideration. Parliamentary procedures allow the speaker of parliament to suspend members, establish restrictions on tabling questions, edit written copies of members’ speeches before delivery, and severely restrict members’ opportunities to question and debate government policies. With the increased number of opposition MPs since 2008, government officials often faced sharp questioning in Parliament, and the press reported in greater detail than in the past.

Under the Local Government Act, elections of public officials were confined to state assemblies and the federal Parliament. All local and city officials have been appointed by the central government since the 1969 race riots. Some politicians and NGO activists advocated the reintroduction of local government elections. Some ruling party municipal officials noted that local bodies were simply “rubber stamps” for the government.

Women faced no legal limits on participation in government and politics. At the end of September, two of the 32 cabinet ministers were women. Women held 23 of the 222 seats in the lower house and 17 of the 68 Senate seats.

In practice the political dominance of the Malay majority meant that ethnic Malays held the most powerful senior leadership positions. Non-Malays filled 10 of the 32 ministerial posts and 18 of the 40 deputy minister positions.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials often engaged in corrupt practices with impunity. The media reported numerous cases of alleged official corruption, and there was a broadly held perception of widespread corruption and cronyism within the governing coalition and in government institutions. In December 2008 the government passed legislation replacing the Anticorruption Agency with the MACC, which went into effect in January.

On November 23, in response to a high court ruling that witnesses be questioned only between the hours of 8:30 a.m. and 5:30 p.m., MACC Director of Investigations Datuk Mohd Shukri Abdull directed investigators to ensure they started and

stopped their interviews during office hours. On December 17, the Court of Appeal ruled that interrogations outside office hours were permissible.

On September 24, Transparency International reported that 70 percent of citizens believed the government was ineffective in fighting corruption.

On May 28, the government declassified an independent audit on the Port Klang Free Zone project that revealed that the construction cost had escalated from 1.1 billion ringgit (approximately \$314 million) in 2001 to an estimated 12.5 billion ringgit (\$3.57 billion). Credible observers alleged that a revolving door of individuals in politics, government, and the private sector led to a lack of appropriate checks and balances and a general misuse of funds. On October 7, the government announced a special task force to determine misconduct or criminal behavior on the part of individuals or entities involved in the project and to recommend actions against them. On December 9, government authorities arrested and charged the former general manager of the Port Klang Authority, Phang Oi Choo, the chief operating officer, Stephen Abok, and the architect, Bernard Tan Seng Swee. On December 14, a fourth individual, Law Jenn Dong, an engineer, was also arrested and charged.

In November the MACC director general stated the agency arrested 605 persons during the year, including 282 civil servants.

Civil servants who refused or failed to declare their assets faced disciplinary actions and were ineligible for promotion.

The Official Secrets Act prohibits the dissemination of classified information. Documents concerning national security, defense, and international relations were often categorized under the act. However, critics accused the government of using the act to prevent dissemination of materials and stifle dissent.

There is no law designed to facilitate citizens' requests for government statistics or other information collected and compiled by the government. Individual MPs were allowed to request and obtain such information on an ad hoc basis, some of which was then made available to the public.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

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

The government cooperated with some international organizations during the year. The government provided increased cooperation to the UNHCR to resettle refugees in third countries.

SUHAKAM was generally considered a credible monitor of some aspects of the human rights situation. However, SUHAKAM is not empowered to inquire into allegations relating to ongoing court cases and must cease its inquiry if an allegation under investigation becomes the subject of a court case. On September 9, SUHAKAM commemorated its 10th anniversary. Forty-two NGOs boycotted the event, claiming frustration over SUHAKAM's failure to proactively protect and promote human rights. The NGOs also stressed the government's failure to make SUHAKAM transparent, independent, and effective. In his opening remarks, SUHAKAM Chairman Abu Talib Othman stated that SUHAKAM was an advisory body with limited power and explained that the public needed to "vote the right people" into Parliament in order for the SUHAKAM Act to be amended to give it enforcement power.

SUHAKAM commissioners traveled throughout the country to educate community leaders, including police officials, on the importance of human rights. Commissioners also made several visits to prisons throughout the country to monitor conditions. They repeatedly noted that a major unresolved challenge was the slow government response to their reports on major topics that touched on fundamental liberties.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution provides for equal protection under the law and prohibits discrimination against citizens based on sex, religion, race, descent, or place of birth. However, the constitution also provides for the "special position" of ethnic Malays and the indigenous groups of the eastern states of Sabah and Sarawak (collectively, bumiputras), and discrimination based on this provision persisted.

Women.—The penal code states that rape is punishable by a prison term of up to 30 years, caning, and a fine. The government enforced the law effectively. A September 2007 amendment to the Penal Code criminalized marital rape. On August 5, a sessions court in Pahang state sentenced a man to the maximum five years in

jail, in what was believed to be the first successful prosecution under the amended law.

The courts may decide the minimum jail term for a man convicted of statutory rape of a girl age 15 years or less. The law also prohibits a person in authority from using his position to intimidate a subordinate into having sexual relations.

Violence against women remained a problem. Reports of rape and spousal abuse drew considerable government, NGO, and press attention. Under the Domestic Violence Act, anyone who willfully contravenes a protection order by using violence against a protected person may be punished by imprisonment of up to one year and a maximum fine of 2,000 ringgit (approximately \$570). In extreme cases involving "grievous hurt" inflicted using a deadly weapon, the maximum imprisonment increases to 20 years. Women's groups criticized the act as inadequate and called for amendments to strengthen it. In their view the act failed to protect women in immediate danger because it requires that separate reports of abuse be filed with both the Social Welfare Department and the police, causing delay in the issuance of a restraining order. Cases also require visible evidence of physical injury, despite its interpretation to include sexual and psychological abuse.

Many government hospitals had crisis centers where victims of rape and domestic abuse could make reports without going to a police station. NGOs and political parties also cooperated to provide counseling for rape victims, but cultural attitudes and a perceived lack of sympathy from the largely male police force resulted in many victims not reporting rapes. According to the Ministry of Women, Family, and Community Development (MWFCD) and a leading women's NGO, only 10 percent of rape cases were reported to police. Women's groups noted that courts were inconsistent in punishing rapists.

Although the government, NGOs, and political parties maintained shelters and offered other assistance to battered spouses, activists asserted that support mechanisms for victims of domestic violence remained inadequate. There was a sexual investigations unit at each police headquarters to help victims of sexual crimes and abuse. Women's rights activists claimed that police needed additional training in handling domestic abuse and rape cases.

Some Shari'a experts urged Muslim women to become more aware of the provisions of Shari'a that prohibit spousal abuse and provide for divorce on grounds of physical cruelty. Provisions in state Shari'a laws, however, generally prohibit wives from disobeying the "lawful orders" of their husbands and presented an obstacle to women pursuing claims against their husbands in Shari'a courts. Muslim women were able to file complaints in civil courts.

Prostitution is not a criminal offense, although soliciting is. NGOs and international organizations estimated that 50,000 to 150,000 women were involved in prostitution. From January to October, 7,810 women from 21 countries were detained for involvement in prostitution. Muslims engaged in prostitution face penalties under Shari'a for engaging in sexual relations out of wedlock. Authorities routinely arrested foreign prostitutes, usually as illegal immigrants or for violating the terms of their nonimmigrant visas. Financially benefiting from the prostitution activities of others is illegal, and the Attorney General's Office prosecuted offenders.

A government voluntary code of conduct provides a detailed definition of sexual harassment, which is meant to raise public awareness of the problem, but women's groups advocated passage of a separate law on sexual harassment. The Malaysian Employers Federation opposed any attempt to legislate against sexual harassment in the workplace, arguing that government-imposed policies would unduly restrict the management of labor relations. On December 15, the Human Resources Ministry announced that there had been 276 reported cases of sexual harassment since 1999, of which 271 had been resolved.

Couples and individuals generally had the right to decide the number, spacing, and timing of their children. Contraceptives such as the birth-control pill and condoms were permitted and were locally available. The great majority of births were attended by skilled medical personnel, and women generally had access to postpartum care. Women and men generally had equal access to diagnostic and treatment services for sexually transmitted infections.

Women's rights advocates asserted that women faced discriminatory treatment in Shari'a courts due to prejudicial interpretations of Islamic family law.

On August 24, the NGO coalition Joint Action Group for Gender Equality (JAG) issued a press statement stating that the conviction of Kartika Shukarno for drinking alcohol illustrated discrimination against Muslim women in the country (see section 1.c.).

In October 2008 the National Fatwa Council issued a fatwa prohibiting girls from acting and dressing like boys. This "tomboy" fatwa claimed such activity was a violation of the tenets of Islam and encouraged homosexual conduct. Sisters In Islam

noted that this fatwa was only directed at women and was an example of the sexism and discrimination against women in the country.

The law allows polygyny, which a few Muslim men practiced. Islamic inheritance law generally favors male offspring and relatives. A small but steadily increasing number of women obtained divorces under the provisions of Shari'a that allow for divorce without the husband's consent.

Non-Muslim women are subject to civil law. The Guardianship of Women and Infants Act gives mothers equal parental rights. Four states extend the provisions of the act to Muslim mothers, and women's groups continued to urge the other states to do the same.

The government undertook a number of initiatives to promote equality for women and the full and equal participation of women in education and the work force. For example, the Women's Ministry developed programs and workshops to encourage women to enter the business community and operate small- and medium-sized enterprises.

Women experienced some economic discrimination in access to employment. On December 28, the human resource minister announced that there were 3.8 million women compared with 7.2 million men in the labor force. In May SUHAKAM reported that women continued to be discriminated against in the workplace in terms of promotion and salary. The percentage of women at the decision-making level in government was less than 20 percent and was lower than that in the private sector. Women were routinely asked their marital status during job interviews. In September 2008 the Kedah State government announced that women entertainers could perform only in front of all-female crowds. The JAG condemned the state government for infringing gender-equality rights protected by the constitution.

Children.—Citizenship is derived from one's parents (see section 2.d.). Parents must register a child within 14 days of birth. The authorities require citizens to provide their marriage certificate and both parents' Malaysian Government Multipurpose Card. Noncitizens must provide passport or travel documents. Parents applying for late registration must prove the child was born in the country. The authorities do not enter the father's information for a child born out of wedlock unless there is a joint application by the mother and the person claiming to be the father. The authorities do not register children born to illegal immigrants or asylum seekers. Asylum seekers who register a birth risked arrest as illegal immigrants. The UNHCR registered children born to refugees. Marriages between Muslims and non-Muslims were officially void. Couples in such marriages had difficulty registering births that recognize the father due to the invalidity of the marriage. Children without birth certificates are stateless and denied entry into both public and private schools. Stateless children (like noncitizens) were required to pay higher medical fees, which caused hardship in many cases.

Although primary education is compulsory, there was no enforcement mechanism governing school attendance.

The government recognized that sexual exploitation of children and, particularly in rural areas, incest were problems. The law provides for six to 20 years' imprisonment and caning for individuals convicted of incest. The testimony of children is accepted only if there is corroborating evidence. This posed special problems for molestation cases in which the child victim was the only witness.

Statutory rape occurred and was prosecuted. According to the MWFC, most victims were below 15 years of age. However, Islamic law provisions that consider a Muslim girl an adult after her first menstruation sometimes complicated prosecution of statutory rape. Such a girl may be charged with *khalwat*, an offense under Shari'a, even if she is under the age of 18 and her partner is an adult. Shari'a courts sometimes were more lenient with males charged with *khalwat*, although in many cases Muslim men were charged and punished for statutory rape under civil law.

Child prostitution existed, but child prostitutes often were treated as delinquents or illegal immigrants rather than victims.

Sabah had a problem of street children. Estimates ranged from a few hundred to 15,000 children born in the country to illegal immigrant parents, some of whom were deported. These children lacked citizenship and access to government-provided support and often resorted to menial labor, criminal activities, and prostitution to survive. Child trafficking remained a problem (see below).

Trafficking in Persons.—The Antitrafficking in Persons Act 2007 prohibits all forms of trafficking in persons. However, persons were trafficked to, from, through, and within the country. The government can also use other laws, such as the Child Act, the Immigration Act, and the Restricted Residence Act, to arrest and detain traffickers.

Trafficking in persons was a serious problem. The country was a destination, and to a lesser extent, a source and transit point for men and women trafficked for the purposes of sexual exploitation and forced labor. Foreign trafficking victims, mostly women and girls from Burma, Mongolia, the People's Republic of China (PRC), Indonesia, Cambodia, Thailand, the Philippines, and Vietnam, were trafficked to the country for commercial sexual exploitation. Many economic migrants, mostly from Nepal, Burma, the PRC, Vietnam, Thailand, the Philippines, Cambodia, Pakistan, Bangladesh, and Indonesia, working as domestic servants or laborers in the construction, factories, and oil-palm and rubber plantations and logging companies, faced exploitative conditions that met the definition of involuntary servitude.

Foreign trafficking victims experienced involuntary confinement, confiscation of travel documents, debt bondage, physical abuse, and forced drug use. The government had not yet reconciled its antitrafficking and passport laws with Memoranda of Understanding (MOUS) with nearby countries that allow employers to confiscate foreign workers' passports and travel documents, which is a contributing factor to trafficking. It remained common practice for employers to confiscate passports. Some female sex trafficking victims said that they were lured to the country by promises of legitimate employment but were forced into prostitution upon their arrival.

According to the police, the Bar Council, SUHAKAM, and victims, many foreigners found to be involved in prostitution may have been trafficking victims. Foreign embassies, NGOs, and government authorities reported that police and NGOs rescued and repatriated more than 880 trafficking victims during the year. The police referred the 327 women rescued from commercial sexual exploitation to the government-operated trafficking shelter; 68 of the women were certified as trafficking victims. Although the Antitrafficking Act indicates that victims of trafficking should be identified, the government has not yet developed or implemented procedures to identify victims of trafficking among the migrant worker population. Some foreign governments expressed concern about the lack of legal protections in place for foreign workers, particularly those subjected to involuntary servitude. Some unidentified victims, including children, were routinely processed as illegal migrants and held in prisons or illegal migrant detention centers prior to deportation. A small number of Malaysian women and girls were trafficked for sexual purposes, mostly to Singapore, Macau, Hong Kong, and Taiwan, but also to the United Kingdom, Japan, Australia, and Canada. According to police and ethnic Chinese community leaders, female citizens who were victims of trafficking were usually ethnic Chinese, although ethnic Malay and Indian women also were exploited as prostitutes.

Trafficking of Malaysians domestically also remained a problem. Women from rural areas, indigenous groups, such as the Orang Asli, and ethnic Indians were particularly vulnerable to domestic trafficking for sexual and labor exploitation. The Malaysian Trade Union Congress (MTUC) estimated a significant number of workers, foreign and domestic, worked in conditions equating to involuntary servitude; however, reliable data was unavailable to provide credible estimates.

According to a United Nations Children's Fund report released in September, trafficking of children for sexual exploitation, pornography, and cheap labor occurred. Contributing factors were the large numbers of refugees, migrants, and stateless children who are vulnerable to exploitation, and inadequate laws to protect the rights of these groups.

There were credible reports of Malaysian immigration officials' involvement in the trafficking of Burmese refugees along the Thai border. Immigration officials allegedly received 700 ringgit (approximately \$200) per person. Several local NGOs estimated immigration officials handed over a significant number of Burmese refugees transported to the border to traffickers. Traffickers demanded ransom, ranging from 1,000 ringgit (\$300) for children to 1,900 ringgit (\$560) for adults, in exchange for freedom and transportation back to Malaysia. Informed sources estimated 20 percent of the victims were unable to pay the ransom and were sold for the purposes of labor or sexual exploitation. Some reports indicated traffickers sold small children not freed by ransom to child-beggar syndicates in the region.

Police and NGOs believed that criminal syndicates were behind most trafficking of migrant workers. Employment agencies were also believed to be heavily involved in trafficking migrant workers.

Since its passage, the government convicted five individuals under the Antitrafficking Act. The first successful prosecution was in December 2008 when Indian citizen Punitha Raja pled guilty to sexually exploiting her maid into prostitution and was sentenced to eight years in prison. The government stated that police and prosecutors were still learning how to use the new law, so a number of cases continued to be prosecuted under immigration or labor laws.

The government's multiagency council prepared a five-year action plan to combat trafficking. Since February the police arrested 173 persons under the act and charged 23. At year's end 17 cases were pending in court and 36 were under investigation. More than 80 percent of the cases involved sex trafficking. On July 20, five immigration officials were arrested under the Antitrafficking Law for their involvement in the trafficking of Burmese refugees. By year's end prosecutors had charged one of the officers.

Under the Antitrafficking Act, any person convicted of trafficking an adult is subject to a maximum imprisonment term of 15 years and a possible fine. A person convicted of trafficking a child receives a minimum sentence of three years and maximum of 20. Any person profiting from the exploitation of a trafficked person may serve a maximum of 15 years and pay a minimum fine of 50,000 ringgit (approximately \$14,706) and maximum of 500,000 ringgit (\$147,058).

The government assisted some underage persons exploited as prostitutes and rescued some trafficked women and girls. In addition to a women's shelter and a children's shelter in Kuala Lumpur, the government opened a new women's shelter in Sabah State on July 15. At year's end the government had two shelters for female victims and one shelter for child victims of trafficking. The government was renovating a facility near Kuala Lumpur International Airport with a capacity of 600 persons to serve as a shelter for male victims. The Antitrafficking Act mandates placement of potential victims of trafficking into approved shelters to permit enforcement officers to investigate their trafficking claims. However, shelter space was inadequate to hold all identified victims. Victims in government-run shelters did not have access to rehabilitative or counseling services. The law requires victims to participate in the prosecution of their traffickers; however, in practice very few did. The law requires that, after providing evidence in a trafficking investigation, victims be turned over to immigration for deportation. Victims typically were deported within 90 days, although a significant number remained for six months or longer. Police continued to work with NGOs and occasionally referred foreign trafficking victims to shelters operated by NGOs. Police participated in NGO and foreign-funded antitrafficking seminars.

The government initiated consultations, seminars, and training workshops to disseminate implementation procedures for enforcing the country's antitrafficking law. The Home Ministry initiated and launched an antitrafficking campaign utilizing radio, television, and print media to increase public awareness of trafficking issues.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—Neither the constitution nor other laws explicitly prohibit discrimination based on physical or mental disabilities, but the government promoted public acceptance and integration of persons with disabilities.

The government did not discriminate against persons with disabilities in employment, education, access to health care, or in the provision of other state services. A public sector regulation reserves 1 percent of all public-sector jobs for persons with disabilities. The government did not mandate accessibility to transportation for persons with disabilities, and few older public facilities were adapted for such persons. New government buildings were generally outfitted with a full range of facilities for persons with disabilities.

A code of practice serves as a guideline for all government agencies, employers, employee associations, employees, and others to place suitable persons with disabilities in private sector jobs.

Special education schools existed but were not sufficient to meet the needs of the population with disabilities.

The government undertook initiatives to promote public acceptance of persons with disabilities, make public facilities more accessible to such persons, and increase budgetary allotments for programs aimed at aiding them. Recognizing that public transportation was not "disabled-friendly," the government maintained its 50 percent reduction of the excise duty on locally made cars and motorcycles adapted for persons with disabilities. The Ministry of Human Resources was responsible for safeguarding the rights of the disabled.

In July 2008 Parliament passed the Persons with Disabilities Act. The act recognizes the rights of the disabled to enjoy the benefits of public transport, housing, education, employment and health care. However, there is no penalty for those who do not comply with its provisions. For example, there are by-laws to compel new buildings to provide access for disabled persons but also loopholes that allow local authorities to exempt compliance. Critics called the act a "toothless tiger."

National/Racial/Ethnic Minorities.—The law and government policy provide for extensive preferential programs designed to boost the economic position of ethnic

Malays or bumiputras, who constituted a majority of the population. Such programs limited opportunities for nonbumiputras in higher education, government employment, business permits and licenses, and ownership of land. Businesses were subject to race-based requirements that limited employment and other economic opportunities for nonbumiputra citizens. According to the government, these programs were necessary to ensure ethnic harmony and political stability.

Despite the government's stated goal of poverty alleviation, these race-based policies were not subject to upper income limitations and appeared to contribute to the widening economic disparity within the bumiputra community. Ethnic Indian citizens, who did not receive such privileges, remained among the country's poorest groups. Another goal of this policy is for bumiputras to hold 30 percent of the nation's wealth. According to several studies, the program reached or exceeded this target; however, official government figures placed bumiputra equity at 18.9 percent. The government did not respond to public requests to make its methodology available.

In 2006 the minister of higher education stated that the nation's 17 public universities employed few nonbumiputra deans. At the Universiti Malaya, 19 of 20 deans were bumiputras; in many other universities, deans were exclusively bumiputras. They also accounted for more than 90 percent of the country's almost 1.15 million civil servants at the end of the year. The percentage has steadily increased since independence in 1957.

On April 22, Prime Minister Najib announced that the government had lifted the 30 percent bumiputra equity requirement for 27 service subsectors including health, social, tourism, business, and computer services. Given the narrow scope of these subsectors, observers considered the announcement a minor adjustment to the entrenched pro-Malay economic policies.

Indigenous People.—Indigenous people (the descendants of the original inhabitants of the peninsular region of the country and the Borneo states, such as the Penan) generally enjoyed the same constitutional rights as the rest of the population. However, in practice federal laws pertaining to indigenous people of the peninsular region, known as the Orang Asli, vested considerable authority in the non-Orang Asli minister for rural development to protect, control, and otherwise decide issues concerning this group. As a result indigenous people in peninsular Malaysia had very little ability to participate in decisions that affected them. The government did not effectively protect indigenous persons' civil and political rights.

The Orang Asli, who numbered approximately 141,000, constituted the poorest group in the country. Government statistics in 2007 categorized approximately 77 percent of Orang Asli households as living below the poverty level. In apparent contradiction to the 2007 statistics, in September 2008 the Department of Orang Asli Affairs (JHEOA) claimed that fewer than 10,000 of the 28,000 Orang Asli households lived below the poverty line. A government-sponsored national advisory council monitored the development of Orang Asli, but only five of the council's 17 members were Orang Asli. In addition, only one Orang Asli held a management position in the government's Department of Orang Asli Affairs. Under its ninth economic plan covering the years 2006-10, the government allocated slightly more than 377.8 million ringgit (approximately \$108 million) for development projects for the Orang Asli. These focused on improving health, preschool education, infrastructure, and economic activities. The plan included an additional 100 million ringgit (\$28.6 million) for development of lands inhabited by the Orang Asli and another 20 million ringgit (\$5.7 million) to curb inflationary pressures. JHEOA reported that the drop-out rate among primary school children had improved from 30 percent to 20 percent since 2008. Moreover, the number of students who drop out between primary and secondary school declined from 50 percent to 30 percent during the same timeframe. In 2008 approximately 600 Orang Asli students went on to college or university.

Under the Aboriginal People's Act, Orang Asli were permitted to live on designated land as tenants at-will, but they did not possess land rights. Observers reported that over the years, the total area of land reserved for Orang Asli had decreased, and some land previously set aside as Orang Asli reserve was rezoned for development. Although the Orang Asli were given the authority to reside on the land, these rights were often undocumented. This led to confrontations between the Orang Asli and logging companies. While the government continued development in these areas, the Orang Asli struggled for their land rights. In November 2008 the government announced it would grant land ownership rights of 125,000 acres of rural land currently belonging to state governments to 20,000 Orang Asli households.

The uncertainty surrounding Orang Asli land ownership made them vulnerable to exploitation. Logging companies continued to encroach on land traditionally held by Orang Asli as well as indigenous groups in the Borneo states. Indigenous people

in Sabah and Sarawak continued to protest encroachment by state and private logging and plantation companies onto land that they considered theirs under native customary rights.

Laws allowing condemnation and purchase of land do not require more than perfunctory notifications in newspapers, to which indigenous persons may have no access. In past years this deprived some indigenous persons of their traditional lands with little or no legal recourse.

The 2007 petition filed by the Semalai, an Orang Asli group, to the high court to review a Pahang State government-ordered eviction from an area the Semalai claimed as their traditional land remained pending at year's end. In 2007 a suit was filed against authorities who allegedly tore down an Orang Asli church in Gua Musang. On July 15, the high court declared that the Orang Asli had the right to their land and to practice the religion of their choice under the Federal Constitution. The government appealed the judgment, and the case remained pending at year's end.

The Penan, an indigenous community of Sarawak, used native customary rights to establish land ownership and stewardship. Each group of Penan maintained its own foraging area, which was passed down from one generation to another. Customary native lands were not always well demarcated. Indigenous rights groups alleged that Abdul Taib Mahmud, the chief minister of Sarawak, leased Penan and other indigenous groups' customary land to logging companies and land developers in exchange for political favors and money. Local observers claimed that logging companies harassed and sometimes threatened vocal Penan leaders and land rights activists. The Sarawak Penan Association continued urging the state government to delineate the Penan's native customary land boundaries, revoke timber licenses that overlapped their land, stop issuing provisional leases for plantations, and halt all logging and plantation development activities on their land. The Penan tribe was among the poorest groups in the country and lived below the poverty line.

On August 20, hundreds of Penan armed with spears and blowpipes set up blockades in the Borneo interior to protest against logging and plantations on their ancestral land. On September 17, the police tore down the blockades and subsequently denied using any force in the removal of the blockades.

On August 20, in a separate incident, police arrested 17 persons from the Penan and other indigenous groups for demonstrating against a proposed dam, which would require a large-scale relocation of indigenous groups.

A credible international NGO reported that workers from two logging companies, including one owned by the chief minister's family, regularly sexually abused Penan women and girls, resulting in several pregnancies. On September 9, Minister of Women, Family, and Community Development Shahrizat Jalil confirmed that Penan girls had been raped and molested by timber company workers. On September 10, the minister announced that the timber company was identified and police would take further action. On October 1, the Penan Support Group, a coalition of 35 NGOs, released a joint press statement questioning the government's sincerity in investigating the alleged rape and sexual abuse of Penan girls and women in Sarawak. Subsequently, Deputy Commissioner of Police for Sarawak Hamza Taib said no further action would be taken on three of the cases due to lack of evidence, while the fourth was still pending as police had yet to identify the victim or witnesses.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Although there are no laws that prohibit homosexual conduct, laws against sodomy and “carnal intercourse against the order of nature” exist and were enforced sporadically. Religious and cultural taboos against homosexual conduct were widespread. For example, during the year a Health Ministry official stated that homosexual activity and masturbation helped to spread the H1N1 infection.

Other Societal Violence or Discrimination.—The government's response to HIV/AIDS was generally nondiscriminatory, although stigmatization of AIDS sufferers was common. In December 2008 the deputy prime minister announced that the premarital courses required for Muslims by the Federal Religious Council would include mandatory HIV screening. Non-Muslims were encouraged to participate but it was not compulsory. He attributed the need for this screening to the rising rate of HIV infection among women. According to the health minister, there were approximately 3,100 new cases during the year.

Section 7. Worker Rights

a. The Right of Association.—By law most workers have the right to form and join trade unions, but the Trade Unions Act (TUA) and the Industrial Relations Act (IRA) restrict this right. Other laws also may restrict freedom of association. For example, the penal code requires police permission for public gatherings of more

than five persons. Trade unions represented 9 percent of the labor force, a slight increase from 8.9 percent in 2008.

Those restricted by law from joining a union include public sector workers categorized as “confidential, managerial, and executive,” as well as defense and police officials. However, according to the International Trade Union Confederation (ITUC), the 2007 amendments to the IRA made it more difficult for workers to form unions because the director general and the minister also have absolute authority to determine designations of workers’ status as “confidential,” “managerial,” or “executive,” leading to possible systemic abuse by employers. In theory foreign workers can join a trade union; however, the Immigration Department barred foreign workers from holding trade union offices, and most foreign workers’ contracts banned them from joining a trade union.

The TUA prohibits interfering with, restraining, or coercing a worker in the exercise of the right to form trade unions or participation in lawful trade union activities. However, the act restricts a union to representing workers in a “particular establishment, trade, occupation, or industry or within any similar trades, occupations, or industries.” In addition, the director general of trade unions has broad discretion to refuse to register a trade union and to withdraw the registration of an existing trade union based on provisions outlined in the act. When registration is refused, withdrawn, or canceled, a trade union is considered an unlawful association; there were no reports of any such actions during the year.

MTUC officials continued to express frustration about delays in the settlement of union recognition disputes. While the IRA requires that an employer respond to a union’s request for recognition within 21 days of application, it was not uncommon for such applications to be refused and unions to go unrecognized for one to four years. If an employer does not respond to the union application within 21 days, the union must submit a written appeal to the director general of trade unions within 14 days. If the union fails to submit the appeal within the stipulated period, the union automatically is not recognized. The act denies the right of unions and individuals to hold strikes protesting the lack of recognition of their union.

Trade unions from different industries, except for those in the electronics sector, may join in national congresses, but such congresses must register separately as societies under the Societies Act.

Government policy inhibited the formation of national unions in the electronics sector, the country’s largest industry, because it has “pioneer status,” which affords certain investment incentives. The government stated that establishment of national unions in the electronics sector would impede foreign direct investment and negatively affect the country’s international competitiveness in the sector; government leaders stated that enterprise-level unions were more appropriate for the electronics industry. According to MTUC officials, 150,000 electronics workers were unable to organize, and only eight in-house unions existed in the electronics industry.

Unions maintained independence from both the government and political parties, but individual union members may belong to political parties. Although by law union officers may not hold principal offices in political parties, individual trade union leaders have served in Parliament. Trade unions were free to associate with national labor congresses, which exercised many of the responsibilities of national labor unions, although they cannot bargain on behalf of local unions.

Trade unions were permitted to affiliate with international trade union organizations, such as global union federations and the ITUC, subject to the approval of the director general of trade unions.

Although private-sector strikes are legal, the right to strike is severely restricted. Strikes or lockouts are prohibited while the dispute is before the industrial court. The law contains a list of “essential services” in which unions must give advance notice of any industrial action. The list includes sectors not normally deemed essential under International Labor Organization definitions. MTUC officials said that requirements imposed by the authorities were so stringent that it was almost impossible to strike. According to MTUC officials, there were no strikes during the year. Employees in the public sector do not have the right to collective bargaining.

The IRA requires the parties to notify the Ministry of Human Resources that a dispute exists before any industrial action may be taken. The ministry’s Industrial Relations Department then may become involved actively in conciliation efforts. If conciliation fails to achieve settlement, the minister has the power to refer the dispute to the industrial court. The IRA prohibits employers from taking retribution against a worker for participating in the lawful activities of a trade union. However, some trade unions questioned the effectiveness of the provisions. The IRA limits worker compensation to a maximum of two years from the time the employee is laid off.

b. The Right to Organize and Bargain Collectively.—Workers have the legal right to organize and bargain collectively, and collective bargaining was widespread in those sectors where labor was organized.

There are two national labor organizations. The MTUC is a society of trade unions in both the private and government sectors and is registered under the Societies Act. As such, the MTUC does not have collective bargaining or industrial action rights but provides technical support for affiliated members. The other national organization is the Congress of Unions of Employees in the Public and Civil Service (CUEPACS), a federation of public employee unions registered under the TUA.

CUEPACS is an umbrella organization that included 127 distinct civil servant unions with approximately 300,000 members out of one million civil servants, represented by an estimated 160 unions. Teacher unions accounted for 140,000 of CUEPACS' 300,000 members. CUEPACS held talks with the government through three National Joint Councils (NJC) that represent three types of workers: managerial and professional, scientific and technological, and general (all other types of workers, such as clerical and support staff). The government established the NJC system to have NJCs serve as aggregating, intermediary negotiating bodies between the government and the various unions served by CUEPACS. NJC members are elected from constituent unions. While an individual civil service union may approach the government directly on narrow issues that affect only that particular union or its members, broader issues that affect the entire civil service flow up to CUEPACS and then to one of the NJCs, depending on the type of civil servants involved.

Government regulations limited CUEPACS' negotiating power and virtually eliminated its right to organize strikes. CUEPACS sought a minimum wage for civil servants; however, by year's end the government had no plans to institute a minimum wage for public or private sector workers.

The government limited collective bargaining agreements in companies designated as having pioneer status. The MTUC continued to object to legal restrictions on collective bargaining in pioneer industries.

Charges of discrimination against employees engaged in organizing union activities may be filed with the Ministry of Human Resources or the industrial court. Critics alleged that the industrial court was slow to adjudicate worker complaints when conciliation efforts by the Ministry of Human Resources failed.

The government holds that issues of transfer, dismissal, and reinstatement are internal management prerogatives; therefore, they are excluded from collective bargaining.

Companies in export processing zones must observe labor standards identical to those in the rest of the country. Although the electronics sector's pioneer status inhibits organizing, many companies had "in-house unions"; however, these were seen as controlled by management and were not allowed to affiliate with national union umbrella bodies.

c. Prohibition of Forced or Compulsory Labor.—The constitution prohibits forced or compulsory labor; however, there were reports that such practices occurred. Although the Malaysian Passport Act 1966 criminalizes possession of someone else's passport "without legal authority," the existence of MOUs that allow for employer retention of employee passports appear to provide sufficient legal authority to satisfy this exception in the passport law. The law therefore does not effectively prevent employers from holding employees' passports, and it was common practice for employers to do so, thereby making employees more vulnerable to being victims of human trafficking and forced labor. Rights groups complained that this practice effectively made some foreign workers captives of the hiring company. Recruiting agents required fees that sometimes made foreign workers vulnerable to debt bondage. Some companies used debt bondage to force some foreign workers to accept harsh working conditions, threatening imprisonment and deportation. Following a series of cases of poor treatment, including an incident when employers abandoned 2,000 workers at Kuala Lumpur's airport, in October 2008 the government imposed a ban on issuing new work permits for guest workers from Bangladesh. Indebted to their employers due to excessively high recruitment fees and without their passports, these workers were effectively forced to work long hours, accept lower wages than promised, allow wage deductions, and live in poor housing. Forced labor conditions reportedly occurred in some palm oil and rubber plantations, factories manufacturing computer components, garment production, restaurants, and in domestic households.

Some of the estimated 220,000 to 280,000 foreign women employed as household workers were subjected to physical abuse and forced to work under harsh conditions, and some child household employees worked in conditions amounting to forced labor. A number of domestic workers were not paid or were paid below the agreed

salary. Several of the abused women reported their employers beat them, forced them to sleep on kitchen floors, and fed them only the scraps from a meal.

Although Malaysia and Indonesia concluded a MOU in 2006 that, among other things, called for domestic workers to be paid directly, receive compensation for personal injury, and be given time off in lieu of overtime, it remained a common practice for employers to deposit wages with recruiting agencies as repayment for debts. During the year the two countries were negotiating a new MOU that would address minimum salaries, provide domestic workers with one day off per week, and remove language allowing employers to confiscate worker passports.

On June 18, a court charged Hau Yuan Tyung with three counts of abusing her Indonesian maid, Siti Hajar. Tyung allegedly scalded Siti Hajar with boiling water as well as tortured and starved her. If convicted, Yuan Tyung could face imprisonment for up to 20 years. She was granted bail of 15,000 ringgit (approximately \$4,285) on the condition she report to the police station once a month as well as surrender her passport.

On September 19, the Indonesian ambassador announced that the Embassy would only renew passports of domestic workers if employers agree to pay a minimum monthly salary of 500 ringgit (\$145).

On October 26, Mautik Hani, 26, an Indonesian woman working as a maid in Selangor died from injuries sustained allegedly at the hands of her employer, A. Murugan. On October 20, police found Hani in a locked bathroom in Murugan's house. Her arms and legs were bound, she had bruises all over her body, a broken back and wrist, and a serious wound to her right leg that exposed bone. She appeared to have been locked in the bathroom for two days without food. Police arrested and charged Murugan with murder. On November 3, he pled not guilty to the charges. The case was pending at year's end.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits the employment of children younger than age 14 but permits some exceptions, such as light work in a family enterprise, work in public entertainment, work performed for the government in a school or in training institutions, or work as an approved apprentice. In no case may a child work more than six hours per day, more than six days per week, or at night.

Most child laborers worked informally in palm-oil plantations and the agricultural sector, helping their parents in the field; however, only adult members of the family received a wage. Child labor in urban areas often was found in family food businesses, night markets, and small-scale industries. Government officials did not deny the existence of child labor in family businesses but maintained that foreign workers had largely replaced child labor and that child labor provisions were vigorously enforced.

e. Acceptable Conditions of Work.—No national minimum wage provision was in effect, as the government preferred to allow market forces to determine wages. Prevailing market wages generally provided a decent standard of living for citizens, although not for all migrant workers. Wage councils, established by a 1947 act to provide a recommended minimum wage for sectors in which the market wage was deemed insufficient, had little impact on wages in any sector. According to MTUC officials, the wage councils had not met since 1996, and their recommended wages have long been obsolete.

Plantation workers generally received production-related payments or daily wages. Under a 2003 agreement, plantation workers received a minimum wage of 350 ringgit (approximately \$100) per month. Proponents of the agreement said that productivity incentives and bonuses raised the prevailing wage to 700 ringgit (\$200). Labor activists and human rights NGOs reported that debt bondage was practiced in some plantations, where whole families of ethnic Indians and migrant workers were placed into forced labor conditions.

Under the Employment Act, working hours may not exceed eight hours per day or 48 hours per workweek of six days. Each workweek must include a 24-hour rest period. The act also sets overtime rates and mandates public holidays, annual leave, sick leave, and maternity allowances. The Labor Department of the Ministry of Human Resources is responsible for enforcing the standards, but a shortage of inspectors precluded strict enforcement.

Illegal foreign workers employed by licensed outsourcing companies and provided to factories on an as-needed basis have no legal protection under the law and limited legal options for recourse in cases of abuse.

Foreign migrant laborers, legal and illegal, often worked under difficult conditions, performed hazardous duties, had their pay withheld by employers, and had no meaningful access to legal counsel in cases of contract violations and abuse.

Foreign workers, particularly if they were illegal aliens, generally did not have access to the system of labor adjudication. However, the government investigated complaints of abuses, attempted to inform workers of their rights, encouraged workers to come forward with their complaints, and warned employers to end abuses. Like other employers, labor contractors may be prosecuted for violating the law. According to the results of a survey conducted during the year by the Federation of Malaysian Manufacturers, the average monthly wage of foreign workers engaged in the manufacturing sector was 581 ringgit (approximately \$166). Migrant workers may bring employment disputes to industrial court. However, this mechanism was seldom used. It is time consuming and, once their work visa terminated, migrants require "special passes" to stay in the country. These passes are valid for one month and cost 100 ringgit (approximately \$29) to renew. Renewal is subject to the discretion of director general of immigration. Migrants holding special passes were not allowed to work.

The Workmen's Compensation Act covers both local and foreign workers but provides no protection for foreign household workers. According to the government, foreign household workers are protected under the Employment Act with regard to wages and contract termination. However, these workers are excluded from provisions of the act that would otherwise ensure that they received one rest day per week, an eight-hour workday, and a 48-hour workweek.

Employers sometimes failed to honor the terms of employment and abused their household workers. Household workers must be ages 25 to 45 for admission into the country, according to Immigration Department officials. They were not allowed to bring family members into the country while employed. The terms of the contract for Indonesian domestic workers, who made up approximately 90 percent of all foreign household workers, were often vague and open to abuse. The typical contract provided for a monthly salary of 450 to 600 ringgit (approximately \$130 to 170) but did not specify the number of working hours per day. NGOs reported that many Indonesian household workers were required to work 14 to 18 hours a day, seven days a week. The contract for Filipina household workers included more-comprehensive protections, but both groups suffered from a lack of education concerning their legal rights.

Some workers alleged that their employers subjected them to inhuman living conditions, withheld their salaries, confiscated their travel documents, and physically assaulted them.

An NGO reported that in 2007 a labor-outsourcing company recruited foreign workers to work at a foreign-owned electronics plants in the country. Each worker paid approximately 5,000 ringgit (approximately \$1,400) and signed a contract guaranteeing work for 27 months at a salary of 800 ringgit (\$225) per month. Their passports were allegedly confiscated and they were taken to a dormitory near the plant. For 10 months they worked at the plant, earning approximately 875 ringgit (\$250) per month. In November 2008 work at the plant slowed, and several workers were returned to the outsourcing company. The outsourcing company then reportedly sent them to work in restaurants, a glove factory, a poultry farm, a frozen fruit plant—all in contradiction to their contracts. During this time the employers allegedly withheld their pay. Some obtained legal counsel and filed a civil claim against the outsourcing company. The civil trial was pending at year's end.

Another NGO reported that between 2005 and 2007, a foreign-owned microchip manufacturing plant hired 80 foreign workers, through two foreign recruiting agencies. These workers were promised a minimum salary of 700 ringgit (approximately \$200) per month. After three months of training, the manufacturing plant allegedly reduced their pay to half of the guaranteed minimum. In May 2008 several workers complained and demanded to speak to management. The manufacturing plant reportedly called the police and threatened to have the workers arrested. Those workers who refused to return to work were repatriated to their home countries. On July 4, eight workers filed a civil case against the company, which was pending at year's end.

Workers have the right to take legal action against abusive employers. According to NGOs the courts generally sided with employees and ruled that employers must pay all back salary and compensate plaintiffs for injuries, but long delays in court proceedings and rulings often precluded aggrieved foreign workers from seeking redress through the court system.

Mechanisms for monitoring workplace conditions were inadequate. Private, for-profit labor agencies, themselves often guilty of abuses, were often responsible for the resolution of abuse cases. Bilateral labor agreements with Indonesia do not provide adequate protections for household workers.

The Occupational Safety and Health Act covers all sectors of the economy except the maritime sector and the armed forces. The act established a national Occupa-

tional Safety and Health Council, composed of workers, employers, and government representatives, to set policy and coordinate occupational safety and health measures. It requires employers to identify risks and take precautions, including providing safety training to workers, and compels companies that have more than 40 workers to establish joint management-employee safety committees. The act requires workers to use safety equipment and cooperate with employers to create a safe, healthy workplace. Employers or employees who violate the act are subject to substantial fines or imprisonment for up to five years, although the MTUC complained that some employers flouted the rules with impunity. There are no specific statutory or regulatory provisions that provide a right for workers to remove themselves from dangerous workplace conditions without arbitrary dismissal.

MARSHALL ISLANDS

The Republic of the Marshall Islands is a constitutional republic with a population of approximately 65,000. In 2007 voters elected the parliament (Nitijela) in generally free and fair multiparty elections. On October 21, a vote of no confidence in the parliament removed Litokwa Tomeing from presidential power. On October 26, the parliament elected speaker Jurelang Zedkaia as president. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, prison conditions, government corruption, violence against women, child abuse, and lack of worker protections were areas of concern.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions.—Prison conditions did not meet international standards.

Lighting, ventilation, and sanitation were inadequate, and there was no program to ensure regular access to outside activity. Security was poor.

One prisoner reportedly died at a temporary holding facility on Ebeye Island. An investigation into the death was pending at year's end.

According to a High Court official, the country's only national prison on Majuro Atoll held 50 inmates as of December 21. There were no specialized prison facilities for female prisoners, including juveniles; they generally were held under house arrest, although some female offenders were held in a separate police substation. Some male juveniles were held together with the general prison population. Pretrial detainees were not separated from the general prison population.

There were no requests for prison visits by independent human rights observers.

In November the government completed renovation on half of the prison on Majuro Atoll and transferred prisoners with the worst criminal records to the newly renovated space. During the first night of operation, prisoners destroyed the new facility and 17 prisoners escaped. Police located the escapees and returned them to custody. At year's end all prisoners were housed in the substandard portion of Majuro jail pending renovation of the entire facility, which was expected to begin once the parliament allocates funds in early 2010.

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

Role of the Police and Security Apparatus.—Civilian authorities maintained effective control over the police force, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the police force during the year.

Arrest Procedures and Treatment While in Detention.—Under the constitution and law, a warrant issued by a court is required for an arrest if there is adequate time to obtain one. The courts have interpreted this provision to exempt situations such as a breach of the peace or a felony in progress. The law provides detainees with the right to a prompt judicial determination regarding the legality of the detention, and authorities generally respected this right and informed detainees promptly of

the charges against them. There was a functioning system of bail, and detainees may request bond immediately upon arrest for minor offenses. Most serious offenses require the detainee to remain in jail until a hearing can be arranged, normally the morning after arrest. In March Chief Justice Carl Ingram criticized the government for the unlawful detention of Bai Lanej, a defendant who was held in a Majuro prison for 13 months without a court hearing. Detainees were allowed access to a lawyer of their choice and if indigent, to one provided by the state. Families had access to detainees.

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice.

Trial Procedures.—The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right.

Defendants may choose either a bench trial or a four-member jury trial. Defendants normally opted for jury trials, which had a higher rate of acquittals. Defendants enjoy a presumption of innocence and have the right to counsel. They may question witnesses, examine government-held evidence, and appeal convictions. The constitution extends these rights to all citizens.

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

Civil Judicial Procedures and Remedies.—There is no separate judiciary in civil matters, but there are administrative remedies for alleged wrongs, including human rights abuses, as well as judicial remedies within the general court system.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of speech and of the press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

Internet Freedom.—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. For most citizens, however, Internet access was limited by small bandwidth, slow connections, and high prices. Internet access was the most expensive in the world, according to visiting International Monetary Fund and World Bank representatives.

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

b. Freedom of Peaceful Assembly and Association.—The constitution provides for freedom of assembly and association, and the government generally respected these rights in practice.

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

Societal Abuses and Discrimination.—There were no reports of societal abuse or discrimination against religious groups, including anti-Semitic acts. There were few known Jews in the country.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The occasion did not arise during the year for government cooperation with the Office of the UN High Commissioner for Refugees or other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law does not prohibit forced exile, but the government did not employ it.

Protection of Refugees.—The country is not a party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees. Its laws do not provide for the granting of asylum or refugee status, and the government has not established a system for providing protection to refugees. In practice the country has almost no history of refugees or asylum seekers.

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

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

Elections and Political Participation.—Executive power is centralized in the president and his cabinet. The legislature consists of the Nitijela and a council of chiefs (Iroij), the latter of which serves a largely consultative function dealing with custom and traditional practices.

On October 26, the legislature elected Jurelang Zedkaia as president after a no-confidence vote on October 21 removed President Litokwa Tomeing from power.

The most recent elections for the Nitijela were held in November 2007. Some ballot boxes were recounted on the initiative of the chief electoral officer, which caused accusations of impropriety and assertions that the boxes should have been reopened only with a court order. A team of independent election observers from the Pacific Islands Forum stated in its initial report that the election, while poorly managed, was conducted in a democratic manner, enabling voters to exercise their will freely. A February 2008 report by a government-appointed independent commission of inquiry placed the blame for the marred election on interference in civil service hiring procedures by the then minister of internal affairs, which led to unqualified individuals managing the election process.

Individuals and parties can freely declare their candidacy and stand for election. There are no restrictions on the formation of political parties, although many candidates preferred to run independently or loosely aligned with informal coalitions.

There are no legal impediments to women's participation in government and politics; however, traditional attitudes of male dominance, women's cultural responsibilities and traditionally passive roles, and the generally early age of pregnancies made it difficult for women to obtain political qualifications or experience. There was one woman in the 33-member Nitijela, who served as minister of health, and four women in the 12-seat House of Iroij. There were a number of women in prominent appointed government positions, including those of secretary of education, minister and secretary of health, secretary of foreign affairs, Social Security Administration director, banking commissioner, and chief public defender.

There were no members of minorities in the legislature.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. World Bank indicators reflected that corruption was a serious problem. Budgetary problems persisted, but independent auditors gave the government an unqualified audit for 2008, noting improvements.

Public officials are not subject to financial disclosure laws. The Attorney General's Office is responsible for investigating cases of alleged corruption. No cases were prosecuted during the year. No high-level elected official has ever been indicted for corruption. Voters tend to look to representatives for financial assistance, which pressured elected officials to use government authority to provide patronage to extended family members and supporters. This frequently led to allegations of nepotism in government hiring, especially for teachers, where studies found serious differences between teacher pay and qualifications. Officials also have used their positions to protect family members from prosecution for alleged wrongdoing.

The individual who was appointed chairman of the Environmental Protection Agency (EPA) board in 2008 was removed, an action that appeared to resolve the conflict of interest between the chairmanship and the business affairs of the country's largest private firm. There were no known developments in the attorney general's investigation into the circumstances surrounding the firing of an EPA employee after he commented on the conflict of interest. In addition the minister of justice, who had also been associated with the same firm, resigned from the cabinet and rejoined the firm, thus removing conflict-of-interest concerns.

The law does not provide specifically for public access to government information. Although there is no specific statutory basis for denying such information, the government held that the burden for overcoming a denial of access rests with the public, and a court filing showing the reason the information is required was often necessary.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Human rights groups generally operated without government restriction, but few local groups existed. The government was not always responsive to the concerns of nongovernmental organizations (NGOs).

The government cooperated with international governmental organizations and permitted visits by UN representatives and other organizations.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination on the basis of sex, race, color, language, national or social origin, place of birth, and family status or descent, and the government generally observed these provisions.

Women.—The law criminalizes rape, including spousal rape, and the government generally enforced the law effectively. However, most observers believed that few sexual offenses were prosecuted, since cultural constraints discouraged victims from reporting such crimes to the police. The law establishes penalties of up to 25 years' imprisonment for first-degree sexual assault.

The law prohibits domestic violence, and the government generally enforced the law when incidents were reported to officials. The law establishes penalties for domestic abuse in the same category as assault and battery. Spousal abuse was common; most assaults occurred while the assailant was under the influence of alcohol. According to a government survey published in the *Marshall Islands Journal* in October, more than 70 percent of female spouses had been abused during an unspecified time period. Violence against women outside the family also occurred, and women in urban centers risked assault if they went out alone after dark.

Police generally responded to reports of rape and domestic assault, and the government's health office provided counseling in reported spousal and child abuse cases. According to a High Court official, no rape cases were filed in the country during the year; of the four previous sexual assault cases brought before the High Court, two resulted in convictions and two, acquittals.

The courts have promulgated rules designed to protect women filing rape charges during court testimony, and women's groups under the NGO Women United Together in the Marshall Islands continued to publicize women's issues and promote greater awareness of women's rights.

Prostitution is illegal but reportedly occurred at low levels on the Majuro and Kwajalein atolls. No reports of prostitution were filed, and no cases were brought before the courts during the year.

Sexual harassment is not prohibited by law, but it was not apparently considered a widespread or serious problem.

Couples and individuals had the right to decide the number, spacing, and timing of children and had the information and means to do so free from discrimination. Access to information on contraception, and skilled attendance at delivery and in postpartum care were widely available. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections.

Women generally enjoyed the same rights as men under family law and in the judicial system. Only women may own land. The inheritance of property and traditional rank is matrilineal, with women occupying important positions in the traditional system, although control of property often was delegated to male family members on behalf of female landowners. Tribal chiefs are the traditional authorities in the country; customarily, a chief is the oldest son or husband of the female landowner. The traditional authority exercised by women has declined with growing urbanization and movement of the population away from traditional lands. While female workers were prevalent in the private sector, many were in low-paying jobs with little prospect for advancement.

Children.—The country provided universal birth registration, and citizenship was derived both by birth within the country's territory and from one's parents.

Education was universal and compulsory to age 18, and the national government did not charge tuition fees, but it was estimated that up to 20 percent of children did not attend elementary school on a regular basis. In many cases this was because they lived too far away from a school or their families could not afford the annual registration fee, which varied by school but averaged approximately \$10 (the U.S. dollar is the national currency), or incidental expenses. The lack of school lunch programs in public schools was cited as another factor that contributed to absenteeism and poor performance.

Child abuse and neglect are criminal offenses, but public awareness of children's rights remained low, and child abuse and neglect were considered increasingly common. Convictions for violation are punishable by up to 25 years in prison, depending

on the degree of the offense. The law requires teachers, caregivers, and other persons to report instances of child abuse and exempts them from civil or criminal liability as a consequence of making such a report. Nonetheless, there were few reports or prosecutions.

The minimum age of consensual sex is 14. The country's statutory rape law provides penalties of up to 25 years' imprisonment. There are no laws addressing child pornography.

Trafficking in Persons.—The law does not specifically prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, through, or within the country.

The State Department's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The constitution prohibits discrimination against persons with physical or mental disabilities. There was no apparent discrimination against persons with physical or mental disabilities in employment, education, access to health care, or the provision of other state services; however, there were no building codes and no legislation mandating access for such persons. The government provided minimal support for persons with mental disabilities.

Persons who could be medically defined as psychotic were imprisoned with the general prison population and visited by a doctor. When prison officials protested the disruptions caused by this practice, other arrangements, such as house arrest, were made.

There is no government agency specifically charged with protecting the rights of persons with disabilities. The attorney general is responsible for handling court cases involving complaints of discrimination against persons with disabilities, but no such cases were brought during the year. Authorities declared November 15-21 as "Disability Week" to spread awareness of the rights and concerns of persons with disabilities.

National/Racial/Ethnic Minorities.—In contrast with previous years, there were no known reports of the government selectively enforcing immigration laws against migrants from the People's Republic of China (PRC) and no reports of immigration officials seizing PRC passports from their holders at the airport and arresting them.

Some ethnic Chinese reported being threatened or attacked based on their race and receiving regular racial slurs. In July a Chinese ship captain was assaulted in Majuro by a gang of local men. No arrests were made in connection with the incident. The local press reported that attacks on Chinese sailors by youth gangs were common. Other ethnic Chinese stated it was common for taxi drivers to refuse to stop for Chinese passengers.

A law requires that employers who hire foreign workers make monetary contributions into a fund that provides job training for citizens. While many considered the law discriminatory against foreign workers, employers were willing to pay the fee in order to hire technically skilled labor, which was not widely available in the country.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—There is no known law criminalizing homosexual conduct. There were no known lesbian, gay, bisexual, and transgender organizations or marches in the country. There were no reports of official or societal discrimination against groups based on sexual orientation in employment, housing, statelessness, or access to education or health care.

Other Societal Violence or Discrimination.—There were no accounts of societal violence based on HIV/AIDS infection. There was some cultural stigma attached to HIV infection, and NGOs and the government conducted campaigns to provide HIV/AIDS education and encourage testing for the disease.

Section 7. Worker Rights

a. The Right of Association.—The law provides for the right of free association in general, and the government interpreted this right as allowing the existence of labor unions. With a small number of major employers, there were few opportunities for workers to unionize, and the country had a limited history and culture of organized labor. In January public school teachers formed the country's first labor union. The 110-member union did not engage in negotiation or collective bargaining during the year, and there were no reports of government restrictions on activity.

The law does not provide for the right to strike, and the government has not addressed this issue.

b. The Right to Organize and Bargain Collectively.—There is no legislation concerning collective bargaining or trade union organization. Wages in the cash econ-

omy were determined by market factors in accordance with the minimum wage and other laws.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The constitution prohibits involuntary servitude, and there were no reports of its practice among citizens. Officials suspected that some forced or compulsory labor existed among the illegal alien population.

The law does not specifically prohibit forced and compulsory labor by children; however, there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—There is no law or regulation setting a minimum age for employment of children. Children typically were not employed in the wage economy, but it was common for children to assist their families in fishing, agriculture, retailing, and other small-scale enterprises.

e. Acceptable Conditions of Work.—The law establishes a minimum wage of \$2.00 per hour for both government and private-sector employees. The national minimum wage did not provide a decent standard of living for a worker and family. However, in the subsistence economy, extended families were expected to help less fortunate members, and there often were several wage earners to support each family. The Ministry of Resources and Development adequately enforced the minimum wage regulations. Foreign employees and local trainees of private employers who had invested in or established a business in the country were exempt from minimum wage requirements. This exemption did not affect a significant segment of the workforce.

A government labor office makes recommendations to the Nitijela on working conditions, such as the minimum wage, legal working hours and overtime payments, and occupational health and safety standards, and the office periodically convenes board meetings that are open to the public. There is no legislation concerning maximum hours of work or occupational safety and health. On Sunday most businesses were closed, and persons generally refrained from working. No legislation specifically gives workers the right to remove themselves from situations that endanger their health or safety without jeopardy to their continued employment, and no legislation protects workers who file complaints about such conditions. The government did not conduct any inspections of workplace health and safety conditions during the year. The law protects foreign workers in the same manner as citizens.

MICRONESIA, FEDERATED STATES OF

The Federated States of Micronesia is a constitutional republic composed of four states: Chuuk, Kosrae, Pohnpei, and Yap. Its population was approximately 108,000. The popularly elected unicameral legislature selects the president from among its four at-large senators (one from each state). There were no formal political parties. The most recent elections for Congress, held in March, were considered generally free and fair, despite technical problems and some allegations of fraud in Chuuk. In May 2007 Congress chose Emanuel Mori as president. Individual states enjoyed significant autonomy, and traditional leaders retained considerable influence in Pohnpei and Yap. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens. Reported human rights problems included judicial delays, government corruption, discrimination against women, domestic violence, and child neglect.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution prohibits such practices, and the government generally respected these provisions; however, there were five complaints by prisoners alleging brutality by corrections officers (three in Kosrae State and two in Chuuk State). The authorities determined that four of those cases were without foundation. In the fifth case a judge in Chuuk ruled that an officer should be fired for police brutality. Chuuk's director of public safety demoted the officer, but the officer remained on the force.

Prison and Detention Center Conditions.—Prison conditions generally met international standards.

At year's end, the country's four states had 76 prisoners held in jails with a capacity of 150 prisoners. Pretrial detainees usually were held with convicted prisoners.

There were no designated juvenile detention facilities, so the states seldom incarcerated juvenile offenders. Such crimes were usually resolved in the traditional, mediation-based manner between the families of the perpetrator and the victim.

The government permits prison visits by human rights observers, but none occurred during the year.

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

Role of the Police and Security Apparatus.—Law enforcement agencies in Chuuk remained staffed with friends and relatives of powerful individuals. Civilian authorities maintained effective control over the national, state, and local police forces, however, and the government had effective mechanisms to investigate and punish abuse. There were no reports of impunity involving the police forces during the year.

Arrest Procedures and Treatment While in Detention.—Warrants are required for arrests, and detainees were promptly advised of the charges against them. Detainees must be brought before a judge for a hearing within 24 hours of arrest, and this requirement was generally observed in practice. Most arrested persons were released on bail. Detainees had prompt access to family members and lawyers. All defendants have the right to counsel; however, the public defender's office was underfunded, and not all defendants received adequate legal assistance in practice.

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice.

The formal legal system coexists with traditional, mediation-based mechanisms for resolving disputes and dealing with offenders at the local level. As a result, few cases reach the trial stage. Except in major criminal cases such as murder or rape, if a perpetrator apologizes, the families involved can determine an appropriate punishment.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Trials were public, although juveniles were allowed closed hearings. Judges conduct trials and render verdicts; there are no juries. Defendants enjoy a presumption of innocence and have the right to counsel, to question witnesses, to access government-held evidence, and to appeal convictions. The law extends these rights to all citizens. There is a national public defender system with an office in each state. Despite these provisions, cultural resistance to litigation and incarceration as methods of maintaining public order allowed some persons to act with impunity. Serious cases of sexual and other assault and even murder did not go to trial, and suspects routinely were released indefinitely. Bail, even for major crimes, usually was set at low levels.

Underfunding of the court system and delays in Chuuk significantly impaired its judiciary's ability to function efficiently. Chuuk's backlog of approximately 3,000 cases extended to 2005. Chuuk struggled to overcome the backlog in the absence of one judge who was on paid sick leave during the entire year. The states of Kosrae, Pohnpei, and Yap reported no significant case backlogs.

The National Court also lacked sufficient funding and staffing to adequately uphold standards. One member of the bar was a convicted felon who represented persons in court. The National Bar Association lacked a standard procedure for disbarment.

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

Civil Judicial Procedures and Remedies.—There is an independent and impartial judiciary in civil matters. The Supreme Court is responsible for hearing lawsuits seeking damages for, or cessation of, human rights violations.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution contains an express right to privacy that prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of expression but does not refer specifically to speech or the press; however, the government generally respected these rights in practice.

Individuals could criticize the government publicly or privately without reprisal. The number of independent media outlets remained small, however, and there was a lack of consistently reliable access to broadcast media.

Internet Freedom.—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Cost and lack of infrastructure limited public Internet access on the outlying islands in each state. On the four principal islands, infrastructure was adequate, but cost still limited access. However, each state telecommunications office had Internet work stations available to the public 24 hours a day for reasonable hourly fees.

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

b. Freedom of Peaceful Assembly and Association.—The constitution provides for freedom of assembly and association, and the government generally respected these rights in practice.

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

Societal Abuses and Discrimination.—There were no reports of societal abuse or discrimination against any religious groups. There were no known Jewish communities in the country and no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution provides for freedom of movement within the country. Foreign travel, emigration, and repatriation are addressed in other areas of the law. In practice, none of these rights were restricted. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law does not explicitly prohibit forced exile; however, statutes that prescribe punishments for crimes do not provide for the imposition of exile, and the government did not employ it.

Protection of Refugees.—The country is not a party to the 1951 Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees. There were no formal requests for refugee status or asylum during the year. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

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

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

Elections and Political Participation.—The last general elections were held in 2007 and were generally free and fair. In March the country held national congressional elections and statewide elections in Chuuk, and there were allegations of polling fraud. International election monitoring and review concluded that while Chuuk experienced some procedural irregularities, the outcome was not significantly altered.

State governors, state legislators, and municipal governments are elected by direct popular vote. There are no restrictions on the formation of political groups; however, there were no significant efforts to form organized political parties, and none existed. Candidates generally sought political support from family and allied clan groupings, religious groups, and expatriate citizen communities.

Cultural factors in the male-dominated society limited women's representation in government and politics. Women were well represented in the middle and lower ranks of government at both the federal and state level but were scarcer in the upper ranks. A woman held the cabinet-level position of secretary of health services, and another woman was sworn in as a justice on the Pohnpei State Supreme Court late in the year. No women ran for office in the 2008 elections. There was one elected woman serving in a governing body, a member of the Pohnpei State legislature. There were no women in the other state legislatures or in the 14-member national legislature.

The country is a multicultural federation, and both the legislature and the government included persons from various cultural backgrounds.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government sometimes implemented these laws effectively; however, officials sometimes engaged in corrupt practices with impunity. Government corruption was a serious problem, particularly in Chuuk State.

In April a court convicted a former ambassador for “over-obligation of government funds” and sentenced him to three years’ imprisonment.

Also in April, Congress expelled a senator convicted in March 2008 of felonious embezzlement of government funds, because the constitution prohibits a felon from serving in Congress.

Public officials were not subject to financial disclosure laws. The Office of the Attorney General has primary responsibility for combating government corruption; however, the national attorney general, appointed in February 2007, remained suspended from practice before the bar due to allegations of improper practices prior to assuming the position of attorney general. (His suspension dated from 1999.)

There is no national law providing for public access to government information. The speaker of Congress can declare any congressional documents confidential. State laws and practices varied. Legislative hearings and deliberations generally were open to the public. In Pohnpei the state legislature’s proceedings were televised, and in Yap they were broadcast on FM radio. Information from other branches of government also was accessible; however, retrieval sometimes was delayed by the loss or mishandling of records and the need for lower level administrative personnel to verify that their release was permissible. There were no reported cases of government denial of access to media, but there were only a small number of media outlets, and their reporting resources were limited.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Although there were no official restrictions, no local groups concerned themselves exclusively with human rights. Several groups addressed problems concerning the rights of women and children, and the government often cooperated with these groups.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law provide explicit protection against discrimination based on race, sex, or language, but societal discrimination against women remained a problem.

Women.—Sexual assault, including rape, is a crime. There is no specific law against spousal rape. Sexual assault involving a dangerous weapon or serious physical or psychological harm to the victim is punishable by up to nine years’ imprisonment in Chuuk and 10 years’ imprisonment in the other three states, and/or a fine of up to \$20,000 in Kosrae and \$10,000 in the other states. If neither a dangerous weapon nor serious harm is involved, the assault is punishable in all states by up to five years’ imprisonment or a fine. Few cases were reported or prosecuted, however; such crimes were underreported due to social stigma. Curriculum at the police academy included programs to train police officers to recognize the problem. According to police and women’s groups, there were a number of reports of physical and sexual assaults against women, both citizens and foreigners, outside the family context.

Reports of spousal abuse, often severe, continued during the year. Although assault is a crime, there were no specific laws against domestic abuse. Effective prosecution of offenses was rare. In many cases victims decided against initiating legal charges against a family member because of family pressure, fear of further assault, or belief that the police would not involve themselves actively in what is seen as a private family problem.

There were no governmental or private facilities to shelter and support women in abusive situations. However, in October Pohnpei State began a program of domestic violence education that included a hotline. The Department of Public Safety (DPS) also began training its officers to handle domestic violence situations. The DPS hopes that its program will eventually lead to legislation and support programs.

Within the traditional extended family unit, violence, abuse, and neglect directed against spouses or children were deemed offenses against the family, not just the individual victims, and were addressed by a complex system of familial sanctions. However, traditional methods of coping with family discord were breaking down with increasing urbanization, monetization of the economy, and greater emphasis on the nuclear family. No government agency, including the police, has succeeded in

replacing the extended family system or in addressing the problem of family violence directly.

Prostitution is illegal and was uncommon, although the police alleged that a small number of prostitutes were available to fishermen temporarily docked in Pohnpei. National and state law enforcement authorities began an investigation into the problem as some local women reportedly engaged in prostitution; the investigation continued at year's end.

The law does not prohibit sexual harassment, and anecdotal reports suggested that it was pervasive.

Couples and individuals had the right to decide the number, spacing, and timing of children, and had the information and means to do so free from discrimination. Access to information on contraception, and skilled attendance at delivery and in postpartum care were widely available through medical facilities. The lack of media prevented public information campaigns. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections.

Women have equal rights under the law, including the right to own property, and there were no institutional barriers to education or employment. Women received equal pay for equal work. Societal discrimination against women continued, however, and cultural mores encouraged differential treatment for women. For example, in Yap State women were prohibited from entering a meeting hall during men's meetings. In Chuuk State women must bow in the presence of men during formal meetings. Nonetheless, women were active and increasingly successful in private business. There was an active national women's advisory council that lobbied the government. Additionally, several small NGOs were interested in women's issues, particularly those associated with family violence and abuse. The Women's Interest Section of the Department of Health and Social Services worked to protect and promote women's rights.

Children.—A child gains citizenship if one or both parents were citizens. Individual states maintain birth records.

Government health care and education programs were inadequate to meet the needs of children. The problem was exacerbated in an environment in which the traditional extended family unit was losing its importance.

Although a compulsory education law requires all children to begin school at age six, not all did so. A shortage of qualified teachers and lack of textbooks hampered progress. Children were permitted to leave school when they reached the age of 14 or after completing the eighth grade.

Child abuse is against the law, although the constitution provides for a right of parental discipline. Crime statistics indicated no complaints of, or arrests for, child abuse during the year, but cultural attitudes regarding parental discipline limited the reporting of abuse. There were some anecdotal reports of child abuse and neglect.

The states' statutory rape laws apply to children age 13 and below in Chuuk, Yap, and Kosrae, age 15 and below in Pohnpei. The penalties vary according to state—Chuuk: five years' imprisonment, \$5,000 fine; Kosrae: 10 years, \$20,000 fine; Yap: 10 years, \$10,000 fine; Pohnpei: five years, \$5,000 fine. Only Pohnpei state has a statute prohibiting child pornography. Both Chuuk and Pohnpei have provisions against exhibiting "adult films" in general; Yap and Kosrae have no such provisions. Both Chuuk and Pohnpei impose a penalty of six months' imprisonment for violations.

Trafficking in Persons.—National and state laws do not specifically prohibit trafficking in persons, and there were allegations that persons were trafficked from and to the country, although no trafficking victims were discovered during the year. A court in Guam convicted the owners of a local bar and their Chuukese accomplices for conspiracy to commit sex trafficking and enticement to travel for the purpose of prostitution. The bar owners, indicted in 2008, admitted that they had recruited at least nine women from Chuuk to work as prostitutes from 2005 to 2007. Most local law enforcement officials believed that the case was isolated, reflecting economic problems in Chuuk, and that trafficking was not endemic in the country.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The law prohibits discrimination in public service employment against persons with disabilities. Children with physical or mental disabilities, including learning disabilities, were provided with special education, including instruction at home if necessary; however, such classes were dependent on foreign funding. There were no reports of discrimination against persons with disabilities in employment, access to health care, or provision of other state services; however, persons with disabilities usually did not seek employment outside the home.

Neither laws nor regulations mandate accessibility to public buildings or services for persons with disabilities. The national Health Services Department is responsible for protecting the rights of persons with disabilities.

Due to a lack of facilities for treating mentally ill persons, some persons with mental illnesses but no criminal background were housed in jails. The authorities provided separate rooms in jails for persons suffering from mental illness, and state health departments provided medication as part of their programs to provide free treatment to all mentally ill residents.

National/Racial/Ethnic Minorities.—Each of the country's four states has a different language and culture. Traditionally the state of Yap had a caste-like social system with high-status villages, each of which had an affiliated low-status village. In the past those who came from low-status villages worked without pay for those with higher status. In exchange those with higher status offered care and protection to those subservient to them. The traditional hierarchical social system has been gradually breaking down, and capable people from low-status villages could rise to senior positions in society. Nonetheless, the traditional system continued to affect contemporary life. Persons from low-status backgrounds tended to be less assertive in advocating for their communities' needs with the government. As a result, low-status communities sometimes continued to be underserved.

The national and state constitutions prohibit noncitizens from purchasing land, and a 2002 law continued to limit the occupations that noncitizens could fill. The national Congress granted citizenship to non-Micronesians only in rare cases. There is no permanent residency status. For the most part, however, noncitizens shared fully in the social and cultural life of the country.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—There are no laws criminalizing homosexual conduct. There were no lesbian, gay, bisexual, or transgender organizations, but there were no impediments to their operation. There were no reports of violence, official or societal discrimination, or workplace discrimination against such persons.

Other Societal Violence or Discrimination.—There were no reports of societal violence or discrimination against persons with HIV/AIDS.

Section 7. Worker Rights

a. The Right of Association.—Although the law does not specifically provide for the right of workers to join a union, under the constitution citizens have the right to form or join associations, and national government employees by law can form associations to "present their views" to the government without coercion, discrimination, or reprisals. No workers, including foreign workers, were prohibited from joining unions, but for a variety of reasons—including the fact that most private-sector employment was in small-scale, family-owned businesses and citizens were not accustomed to collective bargaining—there were no unions.

There is no specific right to strike, but no law prohibits strikes.

b. The Right to Organize and Bargain Collectively.—No law deals specifically with trade unions or with the right to collective bargaining. Since there were no unions, there were no reports of collective bargaining agreements during the year. Individual employers, the largest of which were the national and state governments, set wages.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The constitution prohibits forced or compulsory labor, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—National and state laws do not establish a minimum age for employment of children. In practice there was no employment of children for wages, but children often assisted their families in subsistence farming and in family-owned shops.

e. Acceptable Conditions of Work.—The minimum hourly wage for employment with the national government was \$2.65. Other minimum wages are set by each state's legislature. All states had a minimum hourly wage for government workers: \$2.00 in Pohnpei, \$1.25 in Chuuk, \$1.42 in Kosrae, and \$0.80 in Yap. Only Pohnpei had a minimum wage for private sector workers: \$1.35 per hour. These minimum wage structures and the wages customarily paid to skilled workers were sufficient to provide a decent standard of living for a worker and family. The minimum wage was enforced through the tax system, and this mechanism was believed to be effective.

There are no laws regulating hours of work (although a 40-hour workweek was standard practice) or prescribing standards of occupational safety and health. A federal regulation requires that employers provide a safe workplace, but the Depart-

ment of Health had no enforcement capability, and working conditions varied in practice. There is no law for either the public or private sector that permits workers to remove themselves from dangerous work situations without jeopardy to their continued employment.

Foreign workers were not subjected to abuse or deported without cause. They have the right to a hearing if facing deportation.

Working conditions aboard some Chinese-owned fishing vessels operating in the country's waters were very poor. Crewmen reported a high incidence of injuries, beatings by officers, and nonpayment of salary.

MONGOLIA

Mongolia, with a population of approximately three million, is a multiparty, parliamentary democracy. The most recent presidential election, held on May 24, was considered largely free and fair. Former prime minister Tsakhiagiin Elbegdorj of the opposition Democratic Party won the election, defeating incumbent Nambaryn Enkhbayar of the Mongolian People's Revolutionary Party (MPRP). The government, led by Prime Minister Sukhbaatarin Batbold, continued to be dominated by an MPRP majority but managed under a unity government with the Democratic Party. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, the following human rights problems were noted: police abuse of prisoners and detainees; impunity; poor conditions in detention centers; arbitrary arrest, lengthy detention, and corruption within the judicial system; continued refusal by some provincial governments to register Christian churches; secrecy laws and a lack of transparency in government affairs; domestic violence against women; and trafficking in persons.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—In contrast with 2008, there were no reports that the government or its agents committed arbitrary or unlawful killings.

In the case of the July 2008 protest resulting in the deaths of five persons, 10 police officers suspected of firing upon civilians were investigated by the Special Investigation Unit (SIU). Amnesty International reported that four senior police officials, including the national chief of police, the chief of the Metropolitan Police, and the heads of the Units for Patrol and Public Order, were also investigated for allegedly giving the order to open fire. The investigation was completed on February 15, and the case file was provided to the police officials under investigation. Although they were given one month to read the file, they did not do so until November. The Prosecutor's Office in turn would not consider bringing charges before it received the file. On December 2, a Working Group of the Human Rights Subcommittee of the State Great Hural (parliament) held the country's first public hearings, in which police officers, citizens, and human rights attorneys testified regarding the July 2008 events. At year's end the Working Group was drafting a report on the findings with recommendations to address violations to be reviewed by the Sub-Committee on Human Rights and the Permanent Committee on Laws.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, police, especially in rural areas, occasionally beat prisoners and detainees. The use of unnecessary force—particularly to obtain confessions—in the arrest process reportedly was common.

Nongovernmental organizations (NGOs) claimed that guards or police sometimes meted out cruel punishment to inmates at police stations and detention centers. The NGOs stated that some inmates were burned with cigarettes, beaten with batons, or kicked in the shins with steel-toed boots.

According to the National Human Rights Commission (NHRC), during the year the SIU of the State Prosecutor General's Office (SPO) received 30 complaints from citizens against police officers suspected of torture, of which 27 were dismissed and three led to convictions. The NHRC stated that some incidents of alleged torture occurred during investigations but not during imprisonment. The NHRC received five complaints against police and law enforcement officers concerning beatings, abuse, and confessions through torture. The five complaints were transferred to the SIU; none had resulted in arrests or charges by year's end. According to an NHRC survey of 569 inmates, 94 percent declared that they had not faced torture, discriminatory

treatment, or abuse. Amnesty International reported that all complaints passed to the Prosecutor's Office from the NHRC were dismissed and that the Prosecutor's Office refused to provide explanations for their dismissal.

Prison and Detention Center Conditions.—Conditions in prisons were poor but improved significantly during the year. The low quality of medical care available to prisoners remained a concern. The Prison Department reported that there were 5,200 prisoners, of whom 315 were women and 10 were juveniles.

Conditions at pretrial detention facilities remained poor. Sources reported incidents of detainee abuse and forced confessions. Additionally, overcrowding and low quality medical care threatened the health of detainees. There were approximately 600 detainees in the sole facility serving Ulaanbaatar in Gands-khudag, built originally for 500. At times cells held eight persons in spaces intended for two or three.

Many inmates entered prison infected with tuberculosis (TB) or contracted it in prison. The government quarantined and treated victims at its TB hospital.

The NHRC monitored conditions at several prisons and the Gands-khudag detention center. Monitors from the diplomatic and human rights community were granted unaccompanied meetings with prisoners during the year.

NGOs reported that prison conditions improved during the year, particularly with regard to general cleanliness and ventilation. With the construction of 12 new prison facilities since 2006 and the refurbishing of old ones, overcrowding in prisons subsided. Additionally, university-educated social workers and psychologists increasingly were employed full time for consultations with prisoners. Prisoners were offered a greater range of vocational, educational, outdoor, and religious activities. NGOs provided clothing, food, books, English-language instruction, and vocational training in prisons and detention centers.

d. Arbitrary Arrest or Detention.—The law provides that no person shall be arrested, detained, or deprived of liberty except by specified procedures; however, arbitrary arrest and detention occurred. General public awareness of basic rights and judicial procedures, including rights with regard to arrest and detention, was limited, especially in rural areas.

Role of the Police and Security Apparatus.—Security forces are under the jurisdiction of the Ministry of Defense (MOD), the Ministry of Justice and Home Affairs (MOJHA), and the General Intelligence Agency (GIA). The MOD oversees national defense and assists in providing domestic emergency assistance and disaster relief, in support of internal security forces. The national police and the Border Force operate under the MOJHA. The GIA is responsible for both internal security and foreign intelligence collection and operations. The GIA's civilian head reports directly to the prime minister. The SPO supervises undercover activities of the police and the intelligence agencies.

Corruption in law enforcement agencies was endemic. The government's Independent Agency Against Corruption (IAAC) investigated some police officers but did not make public the results of any such investigations. There were no major changes to prevent police from abusing detainees or punish those who did so. However, the government made efforts to improve the training and professionalism of the security forces.

Mechanisms to investigate police abuses remained inadequate as investigatory units lacked the resources to pursue all allegations. According to the SIU, police frequently blocked or impeded the work of its investigators, particularly when the targets of investigation were high-ranking police officials. The SIU investigates allegations of misconduct by law enforcement personnel, prosecutors, and members of the judiciary. During the year the SIU received 518 complaints against law enforcement officials, opened cases on 171 of these complaints, refused to open cases on 240 complaints, and transferred 107 complaints to other agencies. At year's end 32 cases were under investigation. The SIU investigated a total of 379 subjects—208 police officers, 126 civilians, 32 investigators, eight intelligence agency officers, two judges, and three prosecutors.

Arrest Procedures and Treatment While in Detention.—A judge-issued warrant is required prior to the arrest of a suspect. A "pressing circumstances" exception allows police to arrest suspects without obtaining a warrant, but this was used with less frequency than in 2008. Arrest without a warrant was less common than in previous years.

By law police must request a court order to continue holding suspects after 24 hours. If permission is obtained, police may hold suspects for up to 72 hours before a decision is made to prosecute or release them. If a court order is not granted within 72 hours, police must release suspects.

Detainees generally were informed promptly of the charges against them. The maximum pretrial detention with a court order is 24 months; an additional six

months are allowed for particularly serious crimes such as murder. Detainees are allowed prompt access to family members. Detainees may be released on bail with the approval of a prosecutor.

A detainee has the right to a defense attorney during pretrial detention and all subsequent stages of the legal process. If a defendant cannot afford a private attorney, the government must appoint an attorney. Despite this legal provision, many detainees were unaware of their right to a government-appointed attorney and did not assert it. There was a shortage of public-funded and pro bono attorneys for low-income defendants, particularly outside of Ulaanbaatar. To address the shortage, the government, working with the UN Development Program, placed an attorney in each of the provincial capitals and the districts of Ulaanbaatar to provide free legal advice. Nonetheless, some detainees refused to use state-funded attorneys for fear that such attorneys would not fairly represent them. Furthermore, many defense attorneys' law licenses were suspended for providing services to the victims of police violence from the July 2008 riots.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice; however, corruption and outside influence were problems. Bribery could contribute to the dismissal of a case or reduction of a recommended sentence. Blackmail and identity fraud were also sources of corruption.

During the year there was one misconduct case opened concerning judicial corruption. The judge in question was found guilty but spared punishment under the president's July blanket amnesty law. In the two cases involving judges pending at the end of 2008, one resulted in an acquittal and the other remained in trial.

The judiciary consists of district and provincial courts as well as the Supreme Court and the Constitutional Court. District courts primarily hear routine criminal and civil cases, while more serious cases, such as murder, rape, and grand larceny, are sent to the provincial courts. Provincial courts also serve as appeals courts for lower court decisions. The 17-member Supreme Court is the court of final appeal, hearing appeals from lower courts and cases involving alleged misconduct by high-level officials. The Constitutional Court, which is separate from criminal courts, has sole jurisdiction over constitutional questions.

The General Council of Courts nominates candidates for vacancies on the courts; the president has the power to approve or refuse such nominations. The council also is charged with protecting the rights of judges and providing for the independence of the judiciary.

Trial Procedures.—The law provides for the right to a fair public trial by a judge. The law provides that defendants are innocent until proven guilty. Juries are not used. Closed proceedings are permitted in cases involving state secrets, rape cases involving minors, and other cases as provided by law. Defendants may question witnesses, present evidence, and appeal decisions. The law extends these rights to all citizens.

Despite these provisions, trial procedures were often plagued by legal inconsistencies. There was a shortage of state-provided defense lawyers, and many defendants lacked adequate legal representation. Judges often relied on confessions, many of which were coerced by police, in convicting defendants.

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

Civil Judicial Procedures and Remedies.—Administrative as well as judicial remedies are available for alleged wrongs. Corruption and outside influence were problems in the civil judicial system, and enforcement of court orders was also a problem. Although by law victims of police abuse can sue for damages, in practice few were able to claim compensation.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. Government interference with licensing and indirect intimidation of the press, particularly broadcast media, was evident.

A variety of newspapers and other publications represented both major political parties and independent viewpoints. The MOJHA licensed newspapers, television and radio broadcasters, and magazines. The media law bans censorship of public information and any legislation that would limit the freedom to publish and broadcast; however, perceived self-censorship continued to be a problem. The government

monitored all media for compliance with antiviolenace, antipornography, antialcohol, and tax laws.

While there was no direct government censorship, the press alleged indirect censorship in the form of government and political party harassment, such as frequent libel complaints and tax audits. The law places the burden of proof on the defendant in libel and slander cases. Both libel and "insult" were criminal charges.

Observers stated that many newspapers were affiliated with political parties, or owned (fully or partly) by individuals affiliated with political parties, and that this affiliation strongly influenced the published reports. The observers also noted that underpaid reporters frequently demanded payment to cover or fabricate a story.

Broadcast media similarly were not free of political interference. A lack of transparency during the tendering process and lack of a fully independent licensing authority inhibited fair competition for broadcast frequency licenses and benefited those with political connections. At the provincial level, local government control of the licensing process similarly inhibited the development of independent television stations.

Internet Freedom.—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to the Information and Communication Technology Agency (ICTA), there were 45 Internet service providers in the country, and all provinces had Internet connectivity. Internet access continued to expand during the year to remote areas as a result of government and private-sector efforts. According to a survey done by ICTA in March, 73 percent of Ulaanbaatar residents had used the Internet at least once. According to the same agency, 6 percent of families in Ulaanbaatar had Internet connections in their homes.

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

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

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

All NGOs, including religious groups, were required to register with the General Registration Agency (GRA). Local assemblies approve applications at the local level, after which the GRA issues the registration. Registration and reregistration procedures were burdensome for religious groups and could take years. The length and documentation requirements of the process reportedly discouraged some organizations from applying. Some provincial authorities reportedly used the registration process to limit the number of places for religious worship; however, this practice was not universal.

According to NGOs the government's approval of places of worship was not a straightforward process. No religious organization was prevented from acquiring land on which to build a house of worship, but to circumvent bureaucratic problems, in many cases land was first acquired by an individual and then transferred to the organization following construction of the house of worship. Some places of worship avoided being authorized as such because of bureaucratic difficulties and instead characterized themselves as a fitness center or a cultural center. Twenty-seven places of worship registered for the first time during the year—15 Christian, seven Buddhist, and five shamanist.

In Tov Province, near Ulaanbaatar, authorities continued routinely to deny church registrations. One church that was denied registration sued provincial authorities in December 2008. The provincial court, Ulaanbaatar Court of Appeals, and Supreme Court all ruled in favor of the church in February, April, and June, respectively. However, local authorities took no steps to register the group.

The law does not prohibit proselytizing, but it forbids the use of incentives, pressure, or "deceptive methods" to introduce religion.

Societal Abuses and Discrimination.—Societal attitudes were generally tolerant, and there was little overt or egregious discrimination based on religion.

The Jewish population remained very small, and there were no reports of anti-Semitic acts during the year.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected

these rights in practice. The government generally cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, and other persons of concern.

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

Protection of Refugees.—The country is not a party to the 1951 Convention relating to the Status of Refugees, and its laws do not provide the granting of asylum or refugee status. However, in practice the government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

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

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic elections held on the basis of universal suffrage. The law limits the president to two four-year terms. Parliamentary and local elections are held separately, also for four-year terms.

The law provides that the majority party in the parliament, in consultation with the president, shall appoint the prime minister. Members of the parliament may serve as cabinet ministers. There is no requirement that the prime minister or other ministers be a member of the parliament.

Elections and Political Participation.—In the most recent presidential election, held on May 24, the former prime minister and candidate of the opposition Democratic Party, Tsakhiagiin Elbegdorj, won the election, defeating MPRP incumbent Nambaryn Enkhbayar. Independent observers described the election as largely free and fair.

The potential for bias within the General Election Commission was a concern, particularly for smaller political parties. Five of the nine commissioners belonged to the MPRP and three to the Democratic Party prior to becoming commissioners and cancelling their memberships, as required by law.

Political parties could operate without restriction or outside interference. There were 17 political parties registered with the Supreme Court.

There were no legal impediments to the participation of women or minorities in government and politics, but their numbers remained small. There were three women in the 76-member parliament. Two of the 15 cabinet ministers were women, as were seven of the 17 Supreme Court justices. Women and women's organizations were vocal in local and national politics and actively sought greater female representation in government policymaking.

There were three ethnic Kazakhs serving in the parliament. There were no members of minorities serving in the cabinet or Supreme Court.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not always implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. Corruption was perceived to be a serious and continuing problem at all levels of government, particularly within the police, judiciary, and customs service. Varying degrees of corruption at most levels of government resulted in a blurring of the lines between the public and private sectors. Conflicts of interest were frequent. The problem was compounded by ineffective governmental oversight bodies and media that frequently failed to expose corruption.

The criminal code proscribes the acceptance of bribes by officials and provides for fines or imprisonment of up to five years. It also outlaws offering bribes to government officials. Corruption-related arrests and convictions were rare but increasing. Despite this, the sentences of a number of officials convicted of accepting bribes were commuted under a blanket amnesty law passed in July.

The IAAC, which is responsible for investigating corruption cases, declared that nearly all of the most senior officials complied with the requirement to declare their assets and income (and those of relatives, including spouses, parents, children, and live-in siblings). The IAAC is also required to review the asset declarations of public servants, including police officers and members of the military, and this was carried out in practice. The IAAC received approximately 1,050 reports of improprieties during the year, of which it referred more than 660 for criminal investigation.

Government and parliamentary decision making was not transparent, and public legislative hearings were rare. Meetings of the standing committees of the parliament were not open to the press or the public. Nevertheless, in December the Human Rights Subcommittee of the State Great Hural held the first public subcommittee hearing since the country's democratization. General sessions of the par-

liament were largely open to the public, although not in all cases. The far-reaching State Secrets Law inhibited freedom of information and government transparency while also undermining accountability. The law also hindered citizen participation in policy discussions and government oversight.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

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

With assistance from the UN Development Program, a local representative in each provincial assembly monitored human rights conditions.

The NHRC is responsible for monitoring human rights abuses, initiating and reviewing policy changes, and coordinating with human rights NGOs; it reports directly to the parliament. The NHRC consists of three senior civil servants nominated by the president, Supreme Court, and parliament for terms of six years. In its reports the NHRC repeatedly criticized the government for abuses of the power of arrest and detention, poor conditions in detention and prison facilities, lengthy detentions without trial, and failure to implement laws related to human rights. However, at the December 2 hearing, NHRC Chairwoman Solongo broadly retracted the criticisms of law enforcement, claiming that their conclusions had been incorrect.

The government allowed midlevel civil servants to receive human rights training through seminars, conferences, and lectures.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law states that “no person shall be discriminated against on the basis of ethnic origin, language, race, age, sex, social origin, or status,” and that “men and women shall be equal in political, economic, social, cultural fields, and family.” The government generally enforced these provisions in practice.

Women.—Rape and domestic abuse are illegal; however, no law specifically prohibits spousal rape, and rape remained a problem. During the year 223 persons were convicted of rape, according to the research center of the Supreme Court. However, NGOs alleged that many rapes were not reported and claimed that police and judicial procedures were stressful to victims and tended to discourage reporting of the crime. Social stigma also lowered the number of cases reported.

According to NGOs, police referred only a minority of rape cases for prosecution, largely claiming that there was insufficient evidence. Postrape medical examinations were available, and results were occasionally used as evidence; however, such exams were not always available in remote areas. NGOs stated that negative attitudes among some police resulted in some cases not being referred to prosecutors.

The criminal code outlaws sexual intercourse through physical violence (or threat of violence) and provides for sentences of up to five years. If the victim is injured or is a minor, the penalty can reach five to 10 years. Such a crime resulting in death, victimizing a child under 14 years of age, or committed by a recidivist may result in 15 to 25 years’ imprisonment or application of the death penalty. Gang rape is punishable by death.

Domestic violence remained a serious problem, particularly against women of low-income rural families. The law requires police to accept and file complaints, visit the site of incidents, interrogate offenders and witnesses, impose administrative criminal penalties, and bring victims to refuge. It also provides for sanctions against offenders, including expulsion from the home, prohibitions on the use of joint property, prohibitions on meeting victims and on access to minors, and compulsory training aimed at behavior modification. However, this level of service was rarely provided because the police lacked sufficient funding and, according to women’s NGOs, often were reluctant to intervene in what was viewed as an internal family matter. At year’s end only 20 cases had been tried under the 2004 law. On December 24, the government established a care facility for domestic violence and rape victims in the National Center for Trauma Treatment.

There were no reliable statistics regarding the extent of domestic abuse; however, the National Center Against Violence (NCAV) estimated in 2007 that one in three women was subject to some form of domestic violence, and one in 10 women was battered. Seven persons were convicted of domestic violence and given restraining orders during the year. The NCAV stated that it provided temporary shelter to 490 persons at its five locations and provided psychological counseling to hundreds. The NCAV launched domestic violence prevention campaigns without governmental support. State and local governments financially supported the NCAV in providing serv-

ices to domestic violence victims. The Ministry of Social Welfare and Labor provided approximately 14 million tugrik (approximately \$9,500) to the NCAV for its five shelters, and the Government Stock Fund provided approximately an additional 13 million tugrik (\$9,000). Dundgovi and Tuv provinces provided two million tugrik (\$1,400) and 1.5 million tugrik (\$1,000) to their respective local shelters as well.

Prostitution is illegal, as is public solicitation for prostitution and organizing prostitution. Women's activists claimed that in Ulaanbaatar there were hundreds of brothels posing as saunas, massage parlors, and hotels. Some were occasionally raided by police. Nevertheless, the overall infrequency of raids allowed brothels to operate de facto. Some women worked abroad in the sex trade; an unknown number of them were trafficked. According to women's NGOs, sex tourism from South Korea and Japan remained a problem.

There are no laws against sexual harassment. NGOs alleged there was a lack of awareness within the society on what constituted inappropriate behavior, making it difficult to gauge the actual extent of the problem. An NHRC survey found that one of every two employed women under the age of 35 identified herself as a victim of workplace sexual harassment.

Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. However, a 2008 study by the women's rights group MONFEMNET found instances in reproductive care facilities of long waiting times, a lack of confidentiality, and unprofessional treatment by medical personnel. They also uncovered a lack of information on reproductive health services and options. Women were equally diagnosed and treated for sexually transmitted infections, including HIV.

The law provides men and women with equal rights in all areas, including equal pay for equal work and equal access to education. In most cases these rights were enjoyed in practice. Women's activists stated that in at least two areas—information technology and mining—women were paid less than men for the same work.

Women represented approximately half of the workforce, and a significant number were the primary wage earners for their families. The law prohibits women from working in certain occupations that require heavy labor or exposure to chemicals that could affect infant and maternal health, and the government effectively enforced these provisions. Many women occupied midlevel positions in government and business or were involved in the creation and management of new trading and manufacturing businesses. The mandatory retirement age of 55 for women is five years lower than for men.

Divorced women secured alimony payments under the family law, which details the rights and responsibilities regarding alimony and parenting. The former husband and wife evenly divided property and assets acquired during their marriage. However, women's activists said that because businesses were usually registered under the husband's name, ownership was increasingly transferred automatically to the former husband.

There was no separate government agency to oversee women's rights; however, there was the National Gender Center under the Prime Minister's Office, a national council to coordinate policy and women's interests among ministries and NGOs, and a division for women and youth concerns within the Ministry of Social Welfare and Labor. In the parliament there was a Standing Committee on Social Policy, Education, and Science that focused on gender matters. There were approximately 100 women's rights NGOs concerned with problems such as maternal and child health, domestic violence, and equal opportunity.

Children.—Citizenship is derived from one's parents.

Child abuse was a significant problem, principally in the forms of violence and sexual abuse. According to the governmental National Center for Children (NCC), both problems were most likely to occur within families.

Although against the law, the commercial sexual exploitation of children—involving those under 18 years of age—was a problem. According to NGOs there were instances of teenage girls kidnapped, coerced, and deceived across the country and forced to work as prostitutes. The minimum age for consensual sex is 16. Violators of the statutory rape law are subject to a penalty of up to three years in prison. The law prohibits the production, sale, or display of all pornography and carries a penalty of up to three months in prison. The country was not believed to be a destination for child sex tourism.

Police raids freed some victims of commercial sexual exploitation; however, NGOs claimed other police officers worked with procurers and brothel keepers.

Although society has a long tradition of raising children in a communal manner, societal and familial changes orphaned many children. Child abandonment was a

problem; other children were orphaned or ran away from home as a result of parental abuse, much of it committed under the influence of alcohol.

According to the NCC, there were 48 temporary shelters and orphanages. There was one government-funded shelter, operated by the National Center Against Violence. The police oversaw an Address Identification Center in the capital where they temporarily provided accommodation to street children. With a capacity of 70, it was often overcrowded in the winter. Approximately 1,500 children lived in shelters countrywide, while 100 children were estimated to be living on the street.

Trafficking in Persons.—Criminal code article 113, reformed in February 2008, specifically prohibits the “sale or purchase of humans” and provides for imprisonment of up to three years, or in egregious cases, up to 15 years. It covers the recruitment, transportation, and harboring of trafficking victims. The country remained a source of internal and transnational trafficking of men, women, and children for forced labor and sexual exploitation.

According to a local NGO study conducted during the year, women between 18 and 25 years of age were most vulnerable to trafficking, particularly those with low incomes or unemployed. Most were trafficked abroad, where they were victims of commercial sexual exploitation. Most trafficking victims were taken to China, which Mongolian citizens can visit without visas. However, cases with destinations such as Kazakhstan, South Korea, Japan, Macau, Hong Kong, Malaysia, Turkey, and Switzerland were alleged or confirmed. Local NGOs cited an increase in internal sex trafficking, including cases in which girls ages 13 to 17 were abducted, largely from the countryside, and forced into prostitution.

The Gender Equality Center operated a trafficking hotline without government funding that received 182 calls related to trafficking in persons during the year. The decrease from 236 calls in 2008 was attributed to a loss of outside funding for a number of months and the resultant interruption of services and advertising. The center and other NGOs also helped Mongolians who had ended up in debt-bondage situations abroad. There also were reports of involuntary servitude by women who entered into marriages with foreigners, predominantly South Korean men.

The criminal code provides for three years’ imprisonment, fines, or forced labor for a person convicted of the sale or purchase of humans. The sentence can reach 10 years if the crime is committed against a minor or against two or more persons, or if it is for the purpose of forced prostitution. If the same crime is committed by an organized criminal organization or inflicts “grave harm,” it can be punishable with a prison term of 10 to 15 years.

Of the seven trafficking cases pending at the close of 2008, two resulted in guilty verdicts, leading to prison sentences ranging from seven to 11 years and the disbursement of approximately 4.3 million tugrik (\$3,000) in fines from perpetrators to victims of trafficking. At year’s end police reported investigating 11 cases of trafficking in persons under article 113.

The government took limited steps to prevent trafficking, identify and prosecute offenders, and assist victims. The government continued to rely heavily on NGOs and the international community to provide most victim services and prevention activity.

During the year the International Organization for Migration and NGOs provided trafficking-related training to immigration officials, police investigators, prosecutors, railway police, GIA officials, and officials of the Ministries of Foreign Affairs and Social Welfare and Labor, among others. In addition foreign law enforcement experts trained local police on techniques for investigating trafficking and developing cases.

During the year 51 trafficking victims located abroad were repatriated. According to the Gender Equality Center, 27 of these were victims of labor exploitation in Turkey. The center assisted them with their reintegration.

Rather than file trafficking charges under the more severe article 113 of the criminal code, prosecutors proceeded under article 124, Organized Prostitution, which is easier to prove and carries lighter sentences. During the year 54 persons reported themselves to law enforcement authorities as victims of trafficking, and nine suspects were convicted under article 113, according to the Supreme Court research center.

Corruption was a problem, and there were reports of law enforcement officials directly involved in or facilitating trafficking crimes, including assisting traffickers in identifying potential victims. Some high-level government and police officials reportedly were clients of minors forced into prostitution, but the government did not investigate or take disciplinary action against law enforcement officers alleged to be involved in trafficking-related corruption.

NGO representatives reported that protections for victims and witnesses were extremely limited, and most assistance was provided by NGOs rather than the govern-

ment. Social stigma inhibited victims from speaking out. The Gender Equality Center operated two shelters for the protection of trafficking victims without government support.

With the assistance of NGOs, customs officials distributed information to outward-bound citizens. However, the leaflets were not given uniformly. Rather, officials reportedly put them in the passports of only those women they judged to be likely prostitutes. NGOs expressed dismay at this incomplete and arbitrary means of distribution.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The labor law prohibits discrimination in employment and education against persons with disabilities. The Law on Social Protection of the Disabled gives provincial governors and the Ulaanbaatar governor the responsibility to implement measures to protect the rights of persons with disabilities. However, the government did little to execute such measures, and in practice most persons with disabilities faced significant barriers to employment, education, and participation in public life.

According to the Mongolian National Federation of Disabled Persons' Organizations (MNFDPPO), there were an estimated 97,000 persons with disabilities over the age of 15 in the country, of whom 20 percent were employed. The government provided tax benefits to enterprises that hired persons with disabilities, whom some firms hired exclusively. The law requires workplaces to hire one person with disabilities for every 25 employees. Persons injured in industrial accidents had the right to reemployment when ready to resume work, and the government offered free retraining at a central technical school. The reemployment right was generally enforced in practice.

There is no general law mandating access to buildings for persons with disabilities, and no government buildings were accessible to such persons. Public transportation was also largely inaccessible to persons with impaired mobility.

There were several specialized schools for youth with disabilities, but these students could also attend regular schools. However, in practice children with disabilities had limited access to education. The MNFDPO estimated that of the country's 42,000 children with disabilities, nearly two-thirds failed to complete secondary education. Schools for individuals with disabilities could accommodate only 2,200 children.

The law requires the government to provide benefits according to the nature and severity of the disability. Although the government generally provided such benefits, the amount of financial assistance was low, and it did not reach all persons with disabilities. According to the MNFDPO, of the country's 97,000 persons with disabilities, approximately 42,000 received an allowance from the government's Social Welfare Fund, and 46,000 persons received allowances from the Social Insurance Fund.

Persons with disabilities could not fully participate in the political process. Little accommodation was made for persons with disabilities at polling stations, and there were no such representatives in the parliament. According to an MNFDPO survey, 80 percent of all eligible voters with disabilities voted by guessing, since they were not able to obtain adequate information about candidates or their parties' platforms. Persons with sight and hearing disabilities also had difficulty remaining informed about public affairs due to a lack of accessible broadcast media.

The MNFDPO worked with the government to encourage vocational education centers to work with children with disabilities so that they could eventually be capable of running small businesses. There was one such business incubator under the MNFDPO, located in Ulaanbaatar.

National/Racial/Ethnic Minorities.—The constitution states that "all persons lawfully residing within Mongolia are equal before the law and the courts." However, some foreign businesspersons resident in the country complained that government tax and licensing authorities subjected them to much greater scrutiny than domestic competitors. Other foreign entrepreneurs complained privately that they were disproportionately targeted for shakedowns by corrupt government officials, including police. Furthermore, they were targeted with frivolous criminal law suits in the event of business disputes, forcing them to leave the country or undergo an onerous process of clearing their names.

A small number of nationalist and xenophobic groups threatened Chinese residents' personal safety and businesses, as well as the safety of any Mongolian women who associated with Chinese men. During the year there were several credible reports of violence against Chinese residents, estimated to number more than 12,000. The government took steps to protect the rights of Chinese residents.

Chinese construction workers, when away from their work sites, were sometimes subjected to hostility and suspicion from host-country citizens.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Homosexual conduct is not specifically proscribed by law. However, Amnesty International and the International Lesbian and Gay Association criticized a section of the penal code that refers to “immoral gratification of sexual desires,” arguing that it could be used against persons engaging in homosexual conduct. Such persons reported harassment and surveillance by police.

The government impeded the free association of lesbian, gay, bisexual and transgender (LGBT) groups. The State Registration Agency refused in multiple instances to register the LGBT Centre, alternatively asking for bribes and declaring its name to be “immoral,” but registered the group in December.

There were reports that individuals were assaulted in public and at home, denied service from stores and nightclubs, and discriminated against in the workplace based on their sexual orientation. There also were reports of abuse of persons held in police detention centers based on their sexual orientation.

Some media outlets described gay men and lesbians with derogatory terms and associated homosexual conduct with HIV/AIDS, pedophilia, and the corruption of youth.

Other Societal Violence or Discrimination.—There was no official discrimination against those with HIV/AIDS; however, some societal discrimination existed. The public continued largely to associate HIV/AIDS with homosexual conduct, burdening victims with the attendant social stigma.

Section 7. Worker Rights

a. The Right of Association.—The law entitles workers to form or join independent unions and professional organizations of their choosing without previous authorization or excessive requirements, and the government respected this right in practice. However, some legal provisions restrict these rights for groups such as foreign workers, public servants, and workers without employment contracts.

Union officials estimated union membership of salaried individuals remained constant at 209,000. Approximately 400,000 workers were self-employed; of these, 241,000 belonged to a union. No arbitrary restrictions limited who could be a union official, and officers were elected by secret ballot.

The law provides for the right to strike. The Confederation of Mongolian Trade Unions reported two strikes during the year, including by miners at the Boroo Gold Mine and technicians at the Aero Mongolia airline.

If an employer fails to comply with a recommendation by a majority of workers, with union involvement or without, employees may exercise their right to strike. The government prohibits third parties from organizing a strike.

Persons employed in essential services, which the government defines as occupations critical for national defense and safety and including police, utility, and transportation, do not have the right to strike.

b. The Right to Organize and Bargain Collectively.—Laws protect collective bargaining, and these were effectively enforced. The law regulates relations among employers, employees, trade unions, and the government. The government’s role is limited to ensuring that contracts meet legal requirements concerning hours and conditions of work. Wages and other conditions of employment are set between employers, whether state or private, and employees, with trade union input in some cases. Approximately 52 percent of workers were covered by collective agreements. The Labor Dispute Settlement Commission resolves disputes involving an individual; disputes involving groups are referred to intermediaries and arbitrators for reconciliation.

The law protects the right of workers to participate in trade union activities without discrimination, and the government protected this right in general. Nevertheless, in the strike against Aero Mongolia, the administration and courts did not recognize the rights of mechanics to establish a company-level trade union, allowing the company to fire those workers seeking to unionize. The case remained in appeal at year’s end. The government does not allow intervention in collective bargaining by third parties.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law specifically prohibits forced or compulsory labor, including by children; however, there were isolated reports that such practices occurred.

The NHRC stated that military officials reportedly subjected subordinates to forced labor, such as cutting firewood, digging ditches, or working at construction sites owned by the superiors’ friends or relatives.

An estimated 250 North Korean laborers were employed in the fields of mining, factory work, utilities, transportation, construction, customer service, and health. There was concern that some North Korean workers were not free to leave their employment or complain about unacceptable work conditions.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits children under the age of 16 from working, although those who are 14 or 15 years of age may work up to 30 hours per week with parental consent. Those under age 18 may not work at night, engage in arduous work, or work in hazardous occupations such as mining and construction. Labor inspectors assigned to regional and local offices were responsible for enforcement of these prohibitions as well as all other labor regulations. Inspectors have the authority to compel immediate compliance with labor legislation, but enforcement was limited, due to the small number of labor inspectors and the growing number of independent enterprises.

Children worked informally in petty trade, scavenging in dumpsites, in unauthorized small-scale mining, and herding animals. Widespread alcoholism and parental abandonment made it necessary for many children to have an income to support themselves. The NCC placed the number of children in the labor force as high as 77,000, although up to 90 percent of these children were involved in traditional animal husbandry, while only 1 percent were estimated to be involved in mining.

International organizations continued to voice concern over child jockeys in horse racing. According to NHRC reports, more than 30,000 child jockeys competed in horse races each year. Children commonly learn to ride horses at age four or five, and young children traditionally serve as jockeys during the national Naadam festival, where horse races range from two to nearly 20 miles. The state bans child jockey racing during the coldest period (October 18 through February 13) and enacted regulations regarding headwear. Nonetheless, in practice very few child jockeys used helmets.

e. Acceptable Conditions of Work.—The legal minimum wage was 108,000 tugrik per month (approximately \$75). This minimum wage, which applied to both public and private sector workers and was enforced by the Labor Ministry, did not provide a decent standard of living for a worker and family. Some workers received less than the minimum wage, particularly at smaller companies in rural areas. The minimum wage is reset annually by the Ministry of Social Welfare and Labor in consultation with trade union representatives and employers.

The standard legal workweek is 40 hours, and there is a minimum rest period of 48 hours between workweeks. For persons 14 and 15 years of age, the workweek is 30 hours; for those 16 and 17 years of age, it is 36 hours. By law overtime work is compensated at either double the standard hourly rate or by giving time off equal to the number of hours of overtime worked. Pregnant women and nursing mothers are prohibited from working overtime by law. These laws generally were enforced in practice.

There is no law mandating sick leave for workers. According to the government, employers set their own rules in this regard.

Laws on labor, cooperatives, and enterprises set occupational health and safety standards; however, enforcement of the standards was inadequate. The Ministry of Social Welfare and Labor had an insufficient number of labor standards inspectors according to the Mongolian Confederation of Trade Unions (MCTU). Inspections were conducted both proactively and in response to complaints filed. An MCTU representative stated that fines leveled against companies not complying with labor standards were insufficient in many cases to induce management to resolve problems cited by inspectors. The near-total reliance on outmoded machinery and problems with maintenance and management led to frequent industrial accidents, particularly in the construction, mining, and power sectors. According to the MCTU, there were 53 deaths and 366 injuries during the year, significantly lower than the 162 deaths and 491 injuries reported for 2008. Workers have the right to remove themselves from situations that endanger health or safety without jeopardy to their employment, and authorities enforced this right.

Foreign workers, a majority of whom were Chinese mining and construction workers, generally enjoyed the same protections as citizens, despite often working in low-wage jobs and living under Spartan conditions. However, the Ministry of Social Welfare and Labor did not monitor the working or living conditions of North Korean laborers, who were employed primarily in the construction and service industries.

NAURU

Nauru is a constitutional republic with a population of approximately 10,700. The most recent parliamentary elections, held in April 2008, were generally free and fair. There were no formal political parties. The unicameral parliament elects one of its members to be the president, who is both chief of state and head of government. Marcus Stephen has served as president since 2007. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, and the law and judiciary provide effective means of addressing individual instances of abuse. Few human rights problems were reported.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions.—The country's only prison was damaged by fire in March 2008. The government undertook repairs, which were continuing at year's end. Repairs to the perimeter fence and most of the interior of the existing prison buildings were completed, including repairs to cells and ablution facilities, and prison conditions generally met international standards. The maximum number of prisoners that the existing facilities were able to hold was 35, and the prison had 35 prisoners accommodated in cells and dormitories. Short-term detainees (those held for no more than 24 hours, generally for drunk and disorderly behavior), including juveniles, were accommodated in shipping containers converted into cells.

The government affirmed it would permit monitoring visits by independent human rights observers, but none were reported. Prison visits by church groups and family members were permitted.

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

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

Arrest Procedures and Treatment While in Detention.—Arrests are made openly, based either on warrants issued by authorized officials or for proximate cause by a police officer witnessing a crime. Police may hold a person for no more than 24 hours without a hearing before a magistrate. There was a functioning bail system. The law provides for accused persons to have access to legal assistance, but in practice qualified assistance was not always readily available. Detainees were allowed prompt access to family members.

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice.

Trial Procedures.—The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. Procedural safeguards are based on English common law. They include the presumption of innocence; the right to be informed promptly of charges; the right to adequate time and facilities to prepare a defense; the right to confront witnesses, present evidence, and appeal convictions; the right to trial by jury; and a prohibition on double jeopardy and forced self-incrimination. Trials are public, defendants have the right to legal counsel, and a representative for the defense is appointed at public expense when required "in the interest of justice." Bail and traditional reconciliation mechanisms rather than the formal legal process were used in many cases, usually by choice but sometimes under communal pressure. These rights were extended to all citizens without exception.

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

Civil Judicial Procedures and Remedies.—There is an independent and impartial judiciary in civil matters, including access to a court to bring lawsuits seeking damages for, or cessation of, human rights violations.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution and law prohibit such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution and law provide for freedom of “expression,” and the government generally respected freedom of speech and of the press in practice.

Although there were no government restrictions, there were few local independent media.

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

Internet facilities were available for public use for an affordable fee.

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

b. Freedom of Peaceful Assembly and Association.—The constitution provides for freedom of assembly and association, and the government generally respected these rights in practice.

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

Societal Abuses and Discrimination.—The relationships among religions generally were amicable, although there was a degree of societal intolerance toward religions other than established Christian denominations. There was no known Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—Neither the constitution nor law specifically provides for freedom of movement within the country, foreign travel, emigration, and repatriation, but the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Neither the constitution nor law prohibits forced exile; however, the government did not use it.

Protection of Refugees.—The country is not a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. Its laws do not provide for the granting of asylum or refugee status, and the government has not established a system for providing protection to refugees. There were no requests during the year for protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

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

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

Elections and Political Participation.—In April 2008 President Marcus Stephen called new parliamentary elections in an effort to break a parliamentary deadlock between government and opposition members of Parliament (MPs). Following the elections, in which three opposition MPs lost their seats, Parliament reelected Stephen as president. Multiple candidates stood for all parliamentary seats in each of the country’s eight constituencies. Political parties could operate without restriction or outside interference, but there were no formal parties.

Independent election observers concluded that the 2008 elections were credible, with voters able to exercise their will freely.

There are no legal impediments to participation in politics by women, but in general women traditionally have been less prominent in politics than men. Four women stood as candidates in the 2008 parliamentary elections, but none was elected. The country’s permanent representative to the UN was a woman. Women held some senior civil service positions, including the head of the civil service and the presidential counsel.

There were no members of minorities in the 18-member Parliament or the cabinet.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, but there are no financial disclosure laws or specific government agencies responsible for combating government corruption. There were some allegations of government corruption during the year.

In March, together with Kiribati and Tuvalu, the country signed a memorandum of understanding to establish a subregional audit support program, a new initiative of the Pacific Association of Supreme Audit Institutions, with the goal of enabling public accounts to be audited to uniformly high standards in a timely manner.

There are no legal provisions providing for public access to government information, and the government did not freely provide such access.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The government did not restrict establishment of local human rights organizations, but no such groups existed.

The government cooperated with international governmental organizations and permitted visits by UN representatives and other organizations. From November 30 to December 1, the government hosted a visit from the Regional Rights Resource Team of the Secretariat of the Pacific Community to discuss legal and policy issues dealing with women's rights.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination on the basis of race, place of origin, color, creed, or sex, and the government generally observed these provisions.

Women.—Rape is a crime punishable by up to life imprisonment. However, there was no information regarding the extent of rape or domestic violence. Police investigated all reports of rape thoroughly, and cases were vigorously prosecuted by the courts. There were two rape convictions during the year. Spousal rape is not specifically identified as a crime, but police investigated and filed charges when allegations of rape were made against a spouse.

The government kept no statistics on the incidence of physical or domestic abuse of women. However, credible reports indicated that sporadic abuse occurred, often aggravated by alcohol use. Families normally sought to reconcile such problems informally and, if necessary, communally. The police and judiciary treated major incidents and unresolved family disputes seriously.

Prostitution is illegal, and there were no reports of such activity during the year.

Some forms of sexual harassment are crimes, but sexual harassment was not a serious problem.

Couples and individuals have the right to decide the number, spacing, and timing of their children. The government-run medical system provided access to contraception and prenatal, obstetric, and postpartum care free of charge. A Department of Health survey on contraceptive use reported that 36 percent of married women surveyed used some form of contraception. The majority of those surveyed who did not use contraception gave as the reason that they wanted more children; the remainder indicated they did not believe in using contraceptives. Women and men had equal access to diagnostic services and treatment for sexually transmitted infections, including HIV.

The law grants women the same freedoms and protections as men. The government officially provides equal opportunities in education and employment, and women may own property and pursue private interests. However, in practice societal pressures and the country's impoverished economic circumstances often limited opportunities for women to exercise these rights fully. The Women's Affairs Office was responsible for promoting professional opportunities for women.

Children.—Citizenship is derived from one's parents. The constitution also provides for acquisition of citizenship by birth in the country in cases in which the person would otherwise be stateless.

Government resources for education and health care for children were severely constrained by the country's economic crisis.

Child abuse statistics were not compiled, but anecdotal evidence indicated that abuse occurred. During the year two persons were convicted of "indecent sexual treatment" of children under age 14.

The minimum age for consensual sex is 17 years. The penalty for unlawful carnal knowledge or attempted carnal knowledge of a girl under age 17 is six years' imprisonment.

onment. “Indecent treatment” of a girl under age 17 is a misdemeanor punishable by two years’ imprisonment.

Trafficking in Persons.—The constitution and law do not specifically prohibit trafficking in persons; however, the constitution prohibits forced labor, and the penal code criminalizes “deprivation of liberty.” There were no reports that persons were trafficked to, from, through, or within the country.

The Department of State’s annual Trafficking in Persons Report can be found at www.state.gov/j/tip/.

Persons With Disabilities.—The law does not specifically prohibit discrimination against persons with disabilities. Nonetheless, there was no reported discrimination against persons with disabilities in employment, education, access to health care, or the provision of other state services. No legislation mandates services for persons with disabilities or access to public buildings. Department of Education teachers provided rudimentary schooling for a small group of students with disabilities, holding classes in a teacher’s home, as no classroom was available.

There is no government agency with specific responsibility for protecting the rights of persons with disabilities. There are no formal mechanisms to protect persons with mental disabilities.

National/Racial/Ethnic Minorities.—Ethnic Chinese composed approximately 5 percent of the population. A pattern of petty theft, property damage, and assault directed at the ethnic Chinese community continued during the year. Police attributed most attacks on ethnic Chinese to economic motivations and noted a general trend of theft-related attacks on the country’s few private businesses, such as stores and restaurants.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Sodomy is illegal, but there were no reports of prosecutions directed at lesbian, gay, bisexual, or transgender persons under this provision. There were no reports of violence or discrimination against persons on the basis of sexual orientation or gender identity.

Other Societal Violence or Discrimination.—There were no reports of violence or discrimination against persons based on HIV/AIDS status.

Section 7. Worker Rights

a. Right of Association.—

The constitution provides for the right of citizens to form and belong to trade unions or other associations. However, the country has virtually no labor laws, nor does it have any formal trade unions. Historically, the transient nature of the mostly foreign workforce hampered efforts to organize trade unions.

The right to strike is not protected, prohibited, or limited by law. There were no strikes during the year.

b. The Right to Organize and Bargain Collectively.—Although there were no legal impediments, collective bargaining did not take place. A tiny private sector, mostly family-run stores and restaurants, employed approximately 1 percent of salaried workers. Salaries, working hours, vacation periods, and other employment matters for government workers are governed by public service regulations.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The constitution prohibits forced or compulsory labor, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law sets the minimum age of employment at 17. The Department of Human Resources and Labor is responsible for enforcing the law, which was respected by the only two significant employers—the government and the phosphate industry. Some children under 17 worked in small, family-owned businesses.

e. Acceptable Conditions of Work.—The government has a graduated salary system for public service officers and employees. At lower ranges the salaries did not provide a decent standard of living for a worker and family. There was no minimum wage for private-sector workers.

By regulation the workweek in both the public and private sectors was 35 hours for office workers and 40 hours for manual laborers. Neither the law nor regulations stipulate a weekly rest period; however, most workers observed Saturdays and Sundays as holidays. There were provisions for premium overtime pay only for public-sector workers.

The government sets some health and safety standards, which the Department of Human Resources and Labor is responsible for enforcing. The phosphate industry had a history of workplace health and safety requirements and compliance, but with the decline of the industry, enforcement of these regulations was lax. A gradual re-

vival of the industry, which continued during the year, was accompanied by accusations that unfiltered dust discharge from the phosphate plant exposed workers and the surrounding communities to a significant health hazard. The government did not act to eliminate the problem, citing high costs. Workers have the right to remove themselves from situations that endanger health or safety without jeopardy to their employment.

NEW ZEALAND

New Zealand is a parliamentary democracy with a population of 4.33 million. Citizens choose their representatives in free and fair multiparty elections, most recently held in November 2008. The National Party won 58 parliamentary seats and formed a minority coalition government; John Key became the new prime minister. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, and the law and judiciary provide effective means of addressing individual instances of abuse; however, indigenous people disproportionately experienced societal problems.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions.—Prison and detention center conditions generally met international standards. The government permitted monitoring visits by independent human rights observers, and such visits occurred during the year.

On March 1, a prisoner was killed by fellow inmates at Auckland Prison. Three men were charged with murder and a fourth was charged as an accessory. The case remained pending at year's end. The family complained that there was inadequate supervision at the prison.

At year's end the prison population was 8,196. Of these, 493 were female; 553 were between the ages of 15 and 19; and 4,140 were prisoners of Maori descent. Male and female prisoners were held in separate prison facilities under equivalent conditions.

Persons accused of a crime who are 17 years of age or older are tried as adults and, if convicted, sent to adult prisons. Juvenile correctional facilities house prisoners who are under 17 years of age.

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

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

Arrest Procedures and Treatment While in Detention.—A court-issued warrant is usually necessary to make an arrest, but police may arrest a suspect without a warrant if there is reasonable cause. Police officers may enter premises without a warrant to arrest a person if they reasonably suspect the person of committing a crime on the premises or have found the person committing an offense and are in pursuit. Police must inform arrested persons immediately of their legal rights and the grounds for their arrest.

After arresting and charging a suspect, police may release the person on bail until the first court appearance. Court bail is granted after the first court appearance unless there is a significant risk that the suspect would flee, tamper with witnesses or evidence, or commit a crime while on bail. Police do not normally grant bail for more serious offenses such as assault or burglary. Family members were granted prompt access to detainees. Authorities allowed detainees prompt access to a lawyer of their choice and, if indigent, to a lawyer provided by the government.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected judicial independence in practice.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Defendants enjoy the rights found in other common-law jurisdictions, including a presumption of innocence, a right to a jury trial, a right of appeal, and the rights to counsel, to question witnesses, and to access government-held evidence. The law extends these rights to all citizens. A lawyer is provided at public expense if the defendant cannot afford counsel.

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

Civil Judicial Procedures and Remedies.—There is an independent and impartial judiciary in civil matters, which includes access to the Human Rights Review Tribunal and other courts to bring lawsuits seeking damages and other remedies for alleged human rights abuses. There are also administrative remedies for alleged wrongs through the Human Rights Commission (HRC) and the Office of Human Rights Proceedings.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

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

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

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

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

Societal Abuses and Discrimination.—Relations among religions generally were amicable, although there were isolated instances of societal abuses or discrimination based on religious belief or practice.

The Jewish community numbered approximately 7,000 persons. Anti-Semitic incidents were rare.

The HRC received 20 complaints regarding a well-publicized case in January in which a cafe owner asked two women to leave his establishment when he heard them speaking Hebrew. The matter was resolved through mediation, and the cafe owner apologized in a press release.

The government-funded HRC actively promoted religious tolerance.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

There is no statutory authority for imposing a sentence of exile, and the government did not practice forced exile.

Protection of Refugees.—The country is a party to the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. Its laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. In practice the government provided protection against expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government also provided temporary protection to individuals who may not qualify under the definition of the 1951 convention and the 1967 protocol until their status was determined and action taken.

During the year the country handled two stateless persons cases, and both individuals claimed refugee status. The first, a Palestinian, was granted asylum. The second case, pertaining to a Kuwaiti, was ongoing at year's end.

Bahareh Moradi, an Iranian citizen, requested refugee status in 2006 and was denied. She appealed that decision in 2008 and lost. By law the Immigration Service cannot divulge details about specific refugee cases; however, it reported that this case was resolved. Bahareh was no longer in hiding, and she faced no deportation order.

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

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

Elections and Political Participation.—In the most recent general elections, held in November 2008, the National Party won 58 of 122 parliamentary seats and formed a minority government in coalition with the ACT Party (five seats) and the United Future Party (one seat). The National-led government also had a cooperation agreement with the Maori Party (five seats). Under the terms of the cooperation agreement, the National Party abandoned its opposition to Maori-designated parliamentary seats. A good working relationship existed between the Maori Party and the National Party government. Three other parties were represented in Parliament: the Labour Party (43 seats), the Green Party (nine seats), and the Progressive Party (one seat).

Women participated fully in political life. There were 41 women in Parliament and eight on the executive council, which is composed of 28 ministers (20 within the cabinet and eight outside). The chief justice of the Supreme Court was a woman. There were three women in the 25-seat parliament of the Associated State of the Cook Islands and four women in the 20-seat parliament of the Associated State of Niue.

Seven seats in Parliament are reserved for persons of Maori ancestry. The number of Maori seats is adjusted every five years, based on the number of persons who register to vote on the Maori electoral roll. Persons of Maori ancestry can also become members of Parliament (MPs) by election or appointment to non-Maori conventional seats.

There were 20 Maori members, five members of Pacific Island descent, and six members of Asian descent in Parliament. The cabinet included at least three members of Maori ancestry.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. There were isolated reports of government corruption during the year. Efforts to combat corruption and prosecution of corruption cases are handled through the Ministry of Justice and the independent Serious Fraud Office.

In April the case of an MP charged in 2007 with 37 criminal violations, including bribery, corruption, and perverting justice, went to trial. A court found the MP guilty of 11 charges of bribery and corruption and 15 charges of obstruction of justice, and it sentenced him to six years in prison.

The law requires MPs, including all ministers, to submit an annual report of financial interests, which is then disclosed publicly. Career civil servants are not subject to this requirement but are subject to ethics standards established by the State Services Commission.

The law provides for public access to government information to be provided within 20 working days of a request. Information must be made available unless a good reason, such as concern for national security, exists for not doing so. The requester must be given an estimate of any fees before the information is provided.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. There were no visits by UN or other international organization representatives during the year.

The Ministry of Justice funds the active HRC, which operates as an independent agency without government interference. The commission has a staff of 60 and has adequate resources to perform its mission. The commission issues four reports each year.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the basis of race, sex, disability, age, and national or ethnic origin, and the government actively enforced these prohibitions.

Women.—Violence against women affected all socioeconomic groups. The law criminalizes rape, including spousal rape; the maximum penalty is 20 years' imprisonment; however, indefinite detention occurred in cases where the parole board believed that the prisoner still posed a risk to society. Each case is reviewed annually by a parole board. From July 2008 through June, police recorded 2,364 "sexual attacks," which resulted in 1,127 prosecutions. During the same period, the police recorded seven offenses of spousal rape with four prosecutions and six offenses of unlawful sexual connection with a spouse with three prosecutions.

Assault by a male on a female is a nonsexual crime punishable by up to two years' imprisonment (a penalty double that for a male-on-male or a female-on-male assault, which carries a one-year maximum penalty). In the 12-month period ending June 30, 3,788 persons were prosecuted for assault by a male on a female. Crisis centers offering support services for victims of sexual violence existed throughout the country and included centers focusing specifically on Maori and Pacific Islanders.

The government's Task Force for Action on Violence Within Families continued to coordinate a variety of government initiatives to eliminate family violence, including its Te Rito program, a national strategy to address all forms and degrees of domestic violence.

Police were responsive when domestic violence was reported. The government partially funded women's shelters, rape crisis centers, sexual abuse counseling, family violence networks, and violence prevention services.

The 2003 Prostitution Reform Act (PRA) decriminalized prostitution and created a certification regime for brothel operators. The act prohibits persons under age 18 from working in the sex industry and gives prostituted adults the same workplace protections as those given to workers in other industries. The law also eliminates the defense (by clients, brothel operators, and pimps, for example) of claiming ignorance that a person engaged in commercial sexual activity was under age 18. The act extends culpability to any person who receives financial gain from such activity involving an underage person. The law prohibits sex tourism, and citizens who commit child sex offenses overseas can be prosecuted in New Zealand courts. The government prosecuted sexual offenses committed abroad based upon evidence collected, including photographs confiscated from the accused upon reentry into the country.

The 11-member Prostitution Law Review Committee (PLRC) consisted of representatives from local government, the police, the public health industry, business, academia, nongovernmental organizations (NGOs), and the sex industry. The PLRC was established under the PRA to review the act's operation. In May 2008 the PLRC published its review of the PRA, in which it recommended continued monitoring and advocacy within the sex industry, support for sex workers seeking alternatives to street work, and enhancements at national and local government levels regarding safety and compliance measures.

Sexual harassment in violation of the Employment Relations Act or the Human Rights Act is unlawful and carries civil penalties. However, sexual contact induced by certain threats may also fall under the criminal code, with a maximum 14-year prison sentence. The HRC published fact sheets on sexual harassment and made sexual harassment prevention training available to schools, businesses, and government departments on a regular basis.

The government recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children, and granted access to information on reproductive health free from discrimination, coercion, or violence. The government does not limit access to male contraception, and female contraception is available without parental consent to women 16 years and older. Skilled healthcare is available, and women are equally diagnosed and treated for sexually transmitted infections, including HIV.

The Ministry of Women's Affairs addresses problems of discrimination and gender equality, and there is a minister of women's affairs in the cabinet.

The Human Rights Commission has an Equal Opportunity Employment team that focuses on workplace gender issues. This team regularly surveys pay scales, conducts a census of women in leadership roles, and actively engages public and private employers to promote compensation equality.

While the law prohibits discrimination in employment and in rates of pay for equal or similar work, the government acknowledged that a gender earnings gap

persisted in practice. According to June figures, women earned 88 percent of the average hourly earnings for men.

Children.—Children born in the country attain citizenship if at least one parent is either a citizen or legal permanent resident of the country. Children born outside of the country attain citizenship as long as at least one parent was a citizen born in the country.

Child abuse continued to be of concern to the government. The government promoted information sharing between the courts and health and child protection agencies to identify children at risk of abuse. The Office of the Commissioner for Children played a key role in monitoring violence and abuse against children. Cases of child abuse and neglect increased over previous years, but according to the Ministry of Justice it was unclear whether this trend reflected higher levels of abuse and neglect, or whether lower community tolerance stimulated increased reporting.

Commercial sexual exploitation of children remained a problem. When discovered, law enforcement authorities arrested and prosecuted the violators.

At year's end a New Plymouth brothel owner charged in November 2008 for employing a 15-year-old girl as a prostitute in 2005 awaited trial. An initial trial was abandoned due to the defendant's health, and a new one was pending at year's end.

A Christchurch brothel owner charged with exploiting underage girls for prostitution in July 2008 was convicted during the year and sentenced to prison for 27 months.

One other 2007 prosecution in Christchurch relating to underage prostitution remained pending at year's end.

The government developed in concert with NGOs a national plan of action against the commercial exploitation of children, and operated programs to reintegrate children out of prostitution through vocational training and educational opportunities.

The Department of Internal Affairs Censorship Compliance Unit actively policed images of child sex abuse on the Internet and prosecuted offenders. The government maintains extraterritorial jurisdiction over child sex offenses committed by the country's citizens abroad.

Trafficking in Persons.—The law prohibits transnational trafficking in persons. The Department of Labor (DoL) reviewed allegations of trafficking but did not prosecute any cases due to insufficient evidence that the victims were trafficked. No cases of transnationally trafficked persons have come to the attention of the authorities since reporting began in 2001, although there were complaints of exploitation of foreign agricultural workers and nonresident women working illegally in prostitution. The government realized that an absence of trafficking reports did not guarantee that trafficking did not occur. The government launched the National Plan of Action for the Promotion and Protection of Human Rights in June that includes training for immigration officials, labor inspectors, and police officers in identifying trafficking "triggers." All labor and illegal prostitution complaints are thoroughly investigated by the appropriate government agency, and no evidence of trafficking was identified during the year.

The antitrafficking law does not address internal trafficking. Other laws that criminalize the exploitation of adults and children in cases where victims (e.g., minors engaged in commercial sex) have not crossed an international border have been used to investigate and prosecute internal trafficking cases.

Although prostitution is not a crime, it is illegal for nonresidents to work in commercial sex activities.

The antitrafficking law stipulates a maximum penalty of 20 years in prison and fines of NZ\$500,000 (approximately \$300,000). Laws against slavery and child sexual exploitation carry penalties of up to 14 years in prison. Under the PRA it is illegal to use or profit from using a person less than 18 years of age in prostitution. Under the criminal law, it is also illegal to have sexual contact with a child under 16 years of age, regardless of whether the accused believed the child to be 16 years or older.

The government established the Interagency Working Group (IWG) as part of the national plan of action. The IWG has primary responsibility for coordinating government efforts to combat trafficking in persons and works closely with NGOs and civil society groups.

The New Zealand Council for Victim Support Groups stood ready to provide wide-ranging assistance programs to victims of internal trafficking, including short-term shelter, temporary legal residence, witness protection, access to medical services, and safe repatriation. The government also worked to address trafficking in children by providing funding for NGO outreach programs in Auckland and Christchurch that provided accommodations and other support for young persons involved in or at risk of involvement in prostitution.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The law prohibits discrimination against persons with disabilities in employment; education; access to places and facilities; and the provision of goods, services, housing, and accommodation. During the year the HRC received 385 disability-related complaints which represented 9 percent of the total complaints received. Compliance with access laws varied. The government is prohibited from discrimination on the basis of physical or mental disability, unless such discrimination can be “demonstrably justified.”

The government supported equal access for persons with disabilities to polling facilities.

The government's Office for Disability Issues worked to protect and promote the rights of persons with disabilities. In addition, during the year both the HRC and the Mental Health Commission continued to address mental health issues in their antidiscrimination efforts.

National/Racial/Ethnic Minorities.—Pacific Islanders, who made up 7 percent of the population, experienced societal discrimination. The Ministries of Justice and Pacific Island Affairs had a program to identify gaps in delivery of government services to Pacific Islanders.

Asians, who made up 10 percent of the population, also reported discrimination. The government mandates a Race Relations Commissioner who has developed a Diversity Action Program aimed at the Maori, Pacific Island, and Asian communities. The program includes an annual Diversity Forum to eliminate race-based discrimination.

Indigenous People.—Approximately 15 percent of the population claimed at least one ancestor from the country's indigenous Maori minority. The law prohibits discrimination against the indigenous population; however, there was a continuing pattern of disproportionate numbers of Maori on unemployment and welfare rolls, in prison, among school dropouts, in infant mortality statistics, and among single-parent households.

Maori unemployment was 10 percent in June, compared with the national average of 5 percent. The average hourly earnings for Maori in June were NZ\$18.76 (approximately \$13.13), and median earnings were NZ\$16.74 (\$11.72). These figures compared with the average and median earnings for all workers of NZ\$22.35 (\$15.65) and NZ\$18.75 (\$13.12), respectively. The median age among Maoris was in the low 20s compared with a median age in the high 20s for the entire population. Younger workers were more likely to be unemployed and typically earned less than their older colleagues; however, the government did not model Maori incomes to reflect this age difference.

Maori constituted 51 percent of the prison population and 42 percent of persons serving community-based sentences. The government, along with community partners, implemented several programs and services to reduce Maori recidivism and overrepresentation in the criminal justice system.

Government policy recognized a special role for indigenous people and their traditional values and customs, including cultural and environmental issues that affected commercial development. The Ministry of Maori Development, in cooperation with several Maori NGOs, sought to improve the status of indigenous people.

A 2004 law regulates ownership of the foreshore (the land between high and low tide) and the seabed. The law granted ownership of the foreshore and seabed to the state and provides for universal public access. It also established a mechanism to accommodate customary indigenous rights of land use, including preservation of existing fishing rights. This legislation has been the focus of protests by Maori groups asserting customary title to the land and by non-Maori groups opposing such claims.

The National Party-led government established a goal to settle all Maori historic claims related to the 1840 Treaty of Waitangi, the country's founding document. At the end of the year, two of the 10 largest Maori tribes had settled their claims completely, receiving NZ\$170 million (approximately \$119 million) each. The government reported significant progress with 20 of the remaining 78 tribes and estimated a total cost of between NZ\$1.5 billion and NZ\$2.0 billion (\$735 million to \$1.4 billion). The government opened a Web site (www.ots.govt.nz) to increase transparency and enable the public to monitor treaty settlement progress.

The government extended the September 2008 filing deadline in order to facilitate a large number of claims. The Ministry of Maori Development reported that all claims were registered and assigned to the applicable geographic regions for resolution.

Police arrested 20 persons, some of whom were Maori, in October 2007 on various weapons charges, including unlawful possession of rifles. The arrests reportedly

stemmed from an investigation begun in 2005 after hunters told authorities they had seen a group of men training with firearms in a camp in a remote mountain area. Maori MPs and others in the Maori community criticized police conduct of the raids that led to the arrests as excessive and heavy-handed. Authorities dropped charges against one defendant due to lack of evidence, and the other 17 cases remained pending at year's end with no scheduled trial date. The government did not file any terrorism charges against these defendants.

In August 2007 the UN Committee on the Elimination of Racial Discrimination (CERD) reported on racial discrimination in the country. The report criticized the government's foreshore and seabed legislation and its handling of Maori land claims. The report also expressed concern that the Bill of Rights Act and the Treaty of Waitangi, under which many Maori rights are spelled out, do not enjoy protected status within the country's parliamentary system. Therefore, according to CERD, enactment of legislation contrary to the act and the treaty was possible. The report included 16 recommendations for changes relating to Maori rights or the rights of other ethnic groups, and CERD requested responses to four of those recommendations within one year. The government submitted a written response to these four CERD recommendations in September 2008 in which it agreed with three of the four recommendations. The fourth, which recommended that the country provide undocumented children access to public education without restriction, was partially rejected. The law states that persons in the country illegally cannot have access to public education; however, interim measures were in place allowing children whose immigration status was under review to attend school.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The law prohibits abuse, discrimination, and acts of violence based upon sexual orientation and gender identity, and the government generally enforced the law. During the year the HRC received 57 discrimination complaints relating to gender or sexual orientation (1.3 percent of all complaints). The Ministry of Justice received no reports of societal violence or discrimination based on sexual orientation.

A Hungarian tourist was acquitted of murder but convicted of the lesser charge of manslaughter for killing a gay man who had solicited him at a local bar. The defendant claimed that the victim's sexual advances had provoked him to commit the crime. The legislature has since repealed the Law of Provocation that the tourist used in his defense.

Other Societal Violence or Discrimination.—The law prohibits violence or discrimination against persons with HIV/AIDS.

Section 7. Worker Rights

a. The Right of Association.—The law provides workers the right to form and join organizations of their choice without previous authorization or excessive requirements, and the law was applied. Nearly all unionized workers were members of unions affiliated with the Council of Trade Unions, a federation that included unions representing various trades and locations. A few small, non-affiliated labor unions also existed. According to DoL statistics published in March, unions represented 17 percent of all wage earners. The law allows unions to conduct their activities without government interference, including the right to strike, and this right was exercised in practice. Labor organization in the territory of Tokelau (population 1,466) was limited and based on communal decision making and activity. In Niue, a self-governing country in free association with New Zealand (population 1,625), the dominant public sector (422 positions) had an active public-service association. In the Cook Islands, also a self-governing country in free association with New Zealand (official population 21,000; resident population 13,000), most workers in the public sector, the major employer, belonged to the Cook Islands Workers' Association, an independent local union. Industrial relations in the Cook Islands are governed by a simplified version of New Zealand's national legislation.

The law prohibits sworn police officers (which includes all uniformed and plain-clothes police but excludes clerical and support staff) from striking or taking any form of industrial action. Disputes that cannot be settled by negotiation between the police association and management are subject to compulsory, final-offer arbitration. Strikes by providers of "key services" are subject to certain procedural requirements, including mandatory notice of three to 14 days, depending on the service involved. Key services include: production, processing, and supply of petroleum products; production and supply of electricity, water, and sewer services; emergency fire brigade and police services; ambulance and hospital services; manufacturing of certain pharmaceuticals and dialysis solutions; operation of residential welfare or penal institutions; airport and seaport operations; and dairy production operations.

There were 11 legal strikes during the first nine months of the year. The Employment Court ruled that one additional strike in September at a dairy company was illegal because it was a key service.

The Employment Court has full and exclusive jurisdiction in matters related to strikes or lockouts and may issue an injunction to prevent the strike or lockout. The DoL also offers mediation in such cases.

The government mediated two labor disputes involving Auckland port workers and a third involving Wellington transport workers. All three cases were decided with minimal interruption in service and resulted in pay increases through new collective bargaining agreements.

b. The Right to Organize and Bargain Collectively.—The law provides for the right of workers to organize and contract collectively through unions, and workers exercised this right in practice.

The Employment Relations Act governs industrial relations and promotes collective bargaining. To bargain collectively, unions must be registered, be governed by democratic rules, be independent, and have at least 15 members. Unions may not bargain collectively on social or political issues.

The law prohibits uniformed members of the armed forces from organizing unions and bargaining collectively. However, police have freedom of association and the right to organize and bargain collectively.

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

A company challenged the Service and Food Workers Union's right to send union organizers into its facilities, arguing that the organizers worked for a competitor, and trade secrets could be compromised. The Employment Court unanimously decided on April 8 in favor of the union ruling that, with adequate prior notice, practical means were available to protect trade secrets.

The Employment Relations Authority (ERA) reviewed the case of a union delegate who was laid off for what the employer claimed were low performance ratings due to his confrontational personality. The employee claimed that he lost his job because of his union activities. ERA found in favor of the employee, stating that his employer would not have dismissed him had he not been a union delegate.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and the government generally enforced these provisions effectively. There were no reports of forced labor during the year.

d. Prohibition of Child Labor and Minimum Age for Employment.—DoL inspectors effectively enforced a ban on the employment of children under the age of 15 in hazardous industries such as manufacturing, mining, and forestry. Children under age 16 may not work between the hours of 10 p.m. and 6 a.m. By law children enrolled in school may not be employed, even outside school hours, if such employment would interfere with their education.

e. Acceptable Conditions of Work.—In April the government increased the minimum hourly wage to NZ\$12.50 (approximately \$8.75). Combined with other regularly provided entitlements and welfare benefits for low-income earners, this wage generally was adequate to provide a decent standard of living for a worker and family. In addition, the new entrants' wage for 16- to 17-year-old workers was increased to NZ\$10 (\$7) for nonsupervisory workers with less than three months or 200 hours of employment. A majority of the work force earned more than the minimum wage.

A 40-hour workweek is traditional. There are legal limits regarding hours worked and premium pay for overtime work. The law does not provide specifically for a 24-hour rest period weekly; however, management and labor have accepted the practice, and it was the norm. The law provides for a minimum four-week annual paid vacation and 11 paid public holidays. Employees who work on a paid holiday are entitled to time and a half for that day and a day off with pay on another date. The armed forces are exempted from this benefit.

A new law went into effect on April 1 granting employees one paid 10-minute rest break during a two- to four-hour work period, one paid 10-minute rest break and one unpaid 30-minute meal break during a four- to six-hour work period, and two paid 10-minute rest breaks and one unpaid 30-minute meal break during a six- to eight-hour shift.

On March 1, the government passed legislation allowing companies with 19 or fewer employees to hire new workers for a trial period of up to 90 calendar days. Employers are permitted to dismiss new employees during this period without cause as long as the decision is not based upon illegal discrimination.

DoL is responsible for enforcement of laws governing work conditions. From July 2008 to June, DoL received 11,269 health- or safety-related employment complaints and opened 10,694 investigations. By the end of June, 6,214 of those investigations

were complete. DoL received 2,593 miscellaneous employment complaints and completed 2,208 investigations of these cases by the end of June. Eighty percent of matters regarding employment relations were settled before or at mediation.

On July 27, the government announced Recognized Seasonal Employee policy changes to payroll deductions to increase transparency and make auditing easier. On November 30, the government made it mandatory for employers to provide health insurance for their seasonal workers.

Extensive laws and regulations govern health and safety issues. Employers are obliged to provide a safe and healthy work environment, and employees are responsible for their own safety and health, as well as ensuring that their actions do not harm others.

Workers have the legal right to strike over health and safety issues, as well as the right to withdraw from a dangerous work situation without jeopardy to continued employment. DoL inspectors effectively enforced safety and health rules, and they had the power to shut down equipment if necessary. The DoL normally investigated reports of unsafe or unhealthy working conditions within 24 hours of notification.

On July 20, the Supreme Court overturned a lower court decision in the case of a 60-year-old Air New Zealand pilot who had been downgraded from the rank of pilot in command to first officer because a foreign government's rules prohibited him from commanding a commercial aircraft on routes to the foreign country. The court found that incorrect legal precedent was applied; however, it ruled that age was a valid occupation qualification. The pilot then withdrew the case.

PALAU

Palau is a constitutional republic with a population of approximately 20,000. The president, the vice president, and members of the legislature (the Olbiil Era Kelulau) are elected for four-year terms. There are no political parties. In generally free and fair elections held in November 2008, Johnson Toribiong was elected president. Civilian authorities generally maintained effective control over the security forces.

The government generally respected the human rights of its citizens. Problems were reported in a few areas, including government corruption, domestic violence, trafficking in persons, and discrimination against, and some abuse of, foreign workers.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions.—Conditions in the country's sole prison, although primitive, generally met international standards. Overcrowding remained a problem. The few female and juvenile prisoners were held in separate cells but were permitted to mingle with male inmates during daylight hours.

There were 87 prisoners, including six women and four juveniles.

No visits by independent human rights observers were requested or made during the year.

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

Role of the Police and Security Apparatus.—The civilian authorities maintained effective control over the National Police and marine police in Koror and Peleliu states. The government has effective mechanisms to investigate and punish abuse and corruption. Corruption and impunity were not major problems.

Arrest Procedures and Treatment While in Detention.—The law requires warrants for arrests. Warrants are prepared by the Office of the Attorney General and signed by a judge. The law provides for a prompt judicial determination of the legality of detention, and this was observed in practice. Detainees were informed promptly of the charges against them and had prompt access to family members and lawyers.

If a detainee could not afford a lawyer, the public defender or a court-appointed lawyer was available. There was a functioning system of bail.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected judicial independence in practice.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. The government has an independent public defender system.

Trials are public and are conducted by judges; there are no juries. A 2008 amendment to the constitution changed the law to provide for trial by jury, but the amendment had not been instituted due to lack of funding. Defendants enjoy a presumption of innocence and a right of appeal. They can question witnesses, present evidence on their own behalf, and access government-held evidence in their cases. The law extends these rights to all citizens.

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

Civil Judicial Procedures and Remedies.—There is an independent and impartial judiciary in civil matters for lawsuits involving allegations of human rights violations.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

Internet Freedom.—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Costs limited Internet access in homes. Internet access was available at schools, government offices, private businesses, internet cafes, and hotels.

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

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

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

Societal Abuses and Discrimination.—There were no reports of societal abuse or discrimination against religious groups, including anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government was willing to cooperate with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern. The law prohibits forced exile, and the government did not use it.

Protection of Refugees.—The country is not a party to the 1951 Convention relating to the Status of Refugees. Its laws do not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees. In practice the government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government did not grant refugee status or asylum; however, the government provided temporary protection to individuals who may not qualify as refugees and provided it to approximately 17 persons during the year.

On February 27, 11 Burmese refugees arrived from the Philippines seeking asylum and the government permitted them to remain temporarily. A UNHCR official

interviewed the Burmese and granted them refugee status. They received financial assistance from UNHCR while waiting for a third country to accept them as refugees.

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

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

Elections and Political Participation.—In November 2008 voters elected a new congress, Johnson Toribiong as president, and Kerai Mariur as vice president. The president, vice president, and Congress serve four-year terms. The Council of Chiefs, consisting of the highest traditional chiefs from each state, advises the president on traditional laws and customs. Although there have been political parties in the past, there were none during the year.

There are no legal impediments to women's participation in government and politics. Two women were elected to the Senate in the November 2008 general elections. Women constituted 16 percent of state legislators. Three women served as state governors during the year. Three female associate justices served in the Supreme Court and five of the country's nine judges were women. A woman was appointed to serve as the attorney general.

There were two members of minorities in the House of Delegates.

Section 4. Official Corruption and Government Transparency

Government corruption was a problem, which the government took some steps to address. The law provides criminal penalties for official corruption, and public officials are required to file annual financial disclosure statements with the Ethics Commission. The Office of the Special Prosecutor and the Office of the Public Auditor are responsible for combating government corruption.

On July 3, Senator and former president Tommy Remengesau, Jr. was charged with 19 counts of violation of the Code of Ethics. Elected officials are required annually to submit a list of assets and sources of income to the Ethics Commission. Senator Remengesau did not disclose all properties he owned in his 2000-03 annual ethics disclosure statements. On November 9, the court found him guilty on 12 counts, acquitted him on two counts and dismissed five counts at the request of the prosecution. In December he was ordered to pay \$156,000 (the U.S. dollar is the national currency) in fines, an equivalent to the value of properties he did not disclose.

In April the new special prosecutor filed charges against the governor of Melekeok for conversion of public funds, misconduct in public office, and money laundering. The trial was pending at year's end. The governor was charged previously in 2008 with 302 counts of embezzling state funds, but the court dismissed the case without prejudice when the former special prosecutor resigned. A state employee also was charged with embezzlement in the same case. The governor and the state employee reportedly withdrew more than \$190,000 from the state bank account between 2002 and 2005 for their personal use.

On March 12, a Koror state legislator charged with grand larceny and false pretense in 2007 was sentenced to six years imprisonment and fined \$10,000 for perjury and misconduct in public office. However, the jail term was reduced to one year.

The 2007 cases of a house speaker charged with misuse of travel funds and the Kayangel state legislators charged with misuse of government funds were settled out of court.

The law provides for the right of citizens and noncitizens including foreign media to examine government documents and observe official deliberations of any government agency, and the government generally respected this provision in practice.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international groups concerned with human rights generally operated without government restriction. Government officials were cooperative and responsive to their views.

There were no visits by UN representatives or other international governmental organization and no reports by international groups on human rights violations.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status, and the government generally observed these provisions.

Women.—Rape, including spousal rape, is a crime punishable by a maximum of 25 years' imprisonment. There was no reported case of rape.

There are no laws on domestic violence. Cases that would be characterized as domestic violence are prosecuted as assault and battery. The Ministry of Health's Office of Victims of Crimes reported 39 cases in which women and children were victims of crime during the current fiscal year (October 2008-September 2009). Alcohol and drug abuse contributed to this problem. According to the Office of the Attorney General, the Ministry of Health, and women's groups, reported cases of women and children as victims of crimes represented a relatively small percentage of cases of actual abuse. Assault is a criminal offense, punishable by up to six months in jail or a fine of up to \$100, and the police responded when such cases were reported; women, however, were reluctant to press charges against their spouses, and there were no shelters for victims. The government conducted public education efforts to combat abuse against women and children.

Prostitution is illegal, but it was a problem. There were reports of women being trafficked to the country from China and the Philippines to work in karaoke bars as hostesses and prostitutes. In July three Chinese women were arrested for prostitution and grand larceny, but the case was unrelated to trafficking.

Sexual harassment is illegal and did not appear to be a major problem.

Couples and individuals had the right to decide the number, spacing, and timing of children, and had the information and means to do so free from discrimination. Access to information on contraception, and skilled attendance at delivery and in postpartum care, were widely available at the government's Belau National Hospital. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections, including HIV.

Women have the same legal rights as men and enjoy those rights. There is no special government office to promote the legal rights of women. The inheritance of property and of traditional rank is matrilineal, with women occupying positions of importance within the traditional system. There were no reported instances of unequal pay for equal work or sex-related job discrimination. The Bureau of Aging and Gender promotes gender workplace equality.

On April 6, local women's groups held an annual conference on women's and children's issues, including health, education, drug abuse, prostitution, and traditional customs and values. Government officials, including the president, vice president, ministers, and traditional chiefs, participated.

Children.—Citizenship of a child is derived from the parents. A child born to foreign national parents is registered as a citizen of those countries.

The government provided a well-funded system of public education for children.

During the year there were 25 reported cases of child abuse. Of these, 11 were of sexual abuse, eight of physical abuse, and six of neglect. Seven cases of sexual abuse were resolved in court; three resulted in convictions. Other cases were pending. There were some sexual abuse cases that were not referred to the court because both parties were minors. In such cases, minors were provided counseling.

Children's rights generally were respected, although there were isolated reports of child neglect.

Trafficking in Persons.—An antitrafficking law prohibits such practices, with penalties of up to 10 years' imprisonment and a fine of up to \$50,000 for exploiting or otherwise profiting from a trafficked person; up to 25 years' imprisonment and a fine of up to \$250,000 for trafficking involving force, fraud, or deception; and up to 50 years' imprisonment and a fine of up to \$500,000 for trafficking involving a child "by any means for the purpose of exploitation." There are also laws against slavery, fraud, and prostitution. There were reports of women and some men being trafficked to the country from China and the Philippines to work in karaoke bars as hostesses and prostitutes, in private homes as domestics, and on construction sites.

The Bureau of Immigration, Division of Labor, and the Office of the Attorney General are responsible for combating trafficking; however, the government lacked the resources and expertise to address the problem in practice. There was no formal assistance available for victims, and victims normally were detained, jailed, or deported if they committed a crime such as prostitution.

In July the special prosecutor filed charges against a local businessman who brought Chinese women into the country as tourists and bribed the chief of the Division of Labor to process the women's working permits. The chief of the Division of Labor then paid the director of the Bureau of Immigration to change the immigration status of the women. Both officials and a staff member of the Division of Labor were charged with forgery, conspiracy, falsification of travel documents, misconduct in public office, and bribery. The case was still pending at the end of the year.

On February 9, the court overturned a 2007 lower court ruling convicting a Taiwanese man for human trafficking. The lower court had released the man. The women involved returned to their home countries.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The Disabled Persons' Antidiscrimination Act and the Programs and Services for Handicapped Children Act cover both persons with mental disabilities and persons with physical disabilities, and the government enforced the provisions of these acts. No discrimination was reported against persons with disabilities in employment, education, access to health care, or the provision of other state services. The government provides a monthly stipend of \$50 for persons with disabilities. The law mandates access to buildings for persons with disabilities, and the government generally enforced these provisions in practice. The public schools had special education programs to address problems encountered by persons with disabilities.

The government agency Ngak Mak Tang (Everyone Matters) has responsibility for protecting the rights of persons with disabilities.

National/Racial/Ethnic Minorities.—The law prohibits noncitizens from purchasing land or obtaining citizenship. A majority of citizens viewed negatively the rapid increase over the past several years in foreign workers, who constituted approximately 48 percent of the work force. Foreign workers and their dependents, both documented and undocumented, accounted for nearly a third of the population. Foreign residents were subjected to discrimination and were targets of petty, and sometimes violent, crimes, as well as other random acts against person and property. Foreign residents made credible complaints that the authorities did not pursue or prosecute crimes committed against noncitizens with the same vigor as crimes against citizens.

In addition some foreign nationals experienced discrimination in employment, pay, housing, education, and access to social services, although the law prohibits such discrimination. The Division of Labor handles cases of workplace discrimination against foreign workers. Cases of workplace discrimination are brought up with the Office of Labor.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—There is no law criminalizing sexual orientation. There were no reports of cases of violence or discrimination based on sexual orientation.

Other Societal Violence or Discrimination.—There were no reports of cases of violence or discrimination against person with HIV/AIDS.

Section 7. Worker Rights

a. The Right of Association.—The law provides for the right of all persons to assemble peacefully and to associate with others for any lawful purpose, including the right to join and organize labor unions. However, there were no active labor unions or other employee organizations; the majority of businesses were small-scale, family-run enterprises employing relatives and friends.

The law does not provide for the right to strike, and the government has not addressed this issue. There were no workers' strikes or protests during the year.

b. The Right to Organize and Bargain Collectively.—There is no law concerning trade union organization or collective bargaining. Market forces determine wages in the cash economy.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor; however, there were reports of foreign workers being forced to work long hours or work without days off contrary to their employment contracts. There were also reports of foreign workers, particularly domestic helpers and unskilled laborers, forced to accept jobs different from those for which they were recruited. Employers sometimes verbally threatened or withheld passports and return tickets of foreign workers desiring to leave unfavorable work situations. The Division of Labor works with employers and employees to address these problems.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law states that the government shall protect children from exploitation. The Division of Labor is responsible for enforcing laws and regulations relating to child labor. There is no minimum age for employment. Children typically were not employed in the wage economy, but some assisted their families with fishing, agriculture, and small-scale family enterprises.

By regulation no foreigner under age 21 may be admitted into the country for employment purposes, and the government generally enforced this regulation effectively.

e. Acceptable Conditions of Work.—A 1999 law sets the minimum wage at \$2.50 per hour, but foreign workers are not included under the minimum wage law. It generally was assumed that legislators specifically exempted foreign contract workers from the minimum wage law to ensure a continued supply of low-cost labor in industries that the legislators often controlled. The national minimum wage provided a decent standard of living for a worker and family. Anecdotal evidence indicated that unskilled workers (usually foreigners) for commercial firms were paid only \$1.50 to \$2.00 per hour; wages for domestic helpers employed in private households were lower still. In addition to their wages, foreign workers usually were provided basic accommodations and food gratis or at nominal cost. The country continued to attract foreign workers from the Philippines, China, and Bangladesh. (Although the law prohibits importation of laborers from Bangladesh, this prohibition was not strictly enforced.) During the year there were more than 6,000 foreign nationals with work permits in the country; of these, roughly 60 percent were from the Philippines, 15 percent from mainland China, and 10 percent from Bangladesh.

There is no legislation concerning maximum hours of work. The Division of Labor has established some regulations regarding conditions of employment for non-resident workers. The division may inspect the conditions of the workplace and employer-provided housing on the specific complaint of the employees, but enforcement was sporadic. Working conditions varied in practice.

Although there are occupational and safety standards, the law does not specifically provide workers the right to remove themselves from situations that endanger their health or safety without jeopardizing their continued employment, and no law protects workers who file complaints about such conditions. Anecdotal evidence suggested that noncitizens would likely lose their employment if they removed themselves from situations that endangered health or safety. Since foreign workers generally are not permitted to change employers and must depart the country if their contract ends for any reason, such workers were reticent about reporting abuses. There were no reports to the government of violations of occupational health or safety standards during the year. The Division of Labor enforces safety standards and laws.

Reports of mistreatment of foreign workers by their employers continued during the year. The foreign workers most likely to be abused were those who worked under contracts as domestic helpers, farmers, waitresses, beauticians, hostesses in karaoke bars and massage parlors, construction workers, and other semiskilled workers, the majority of whom were from the Philippines, China, and Bangladesh. The most commonly reported abuses included misrepresentation of contract terms and conditions of employment, withholding of pay or benefits, and substandard food and housing. There were also complaints of physical abuse. In a number of instances local authorities took corrective action when alerted by social service and religious organizations. The Division of Labor helped to resolve disputes or complaints between employers and foreign workers.

PAPUA NEW GUINEA

Papua New Guinea is a constitutional, federal, multiparty, parliamentary democracy with a population of approximately 6.3 million and more than 800 indigenous tribes. The most recent general elections, held in 2007, were marred by bribery, voter intimidation, and influence peddling. A coalition government, led by Prime Minister Michael Somare, was formed following the elections. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted independently.

The government generally respected the human rights of its citizens, but there were serious problems in some areas. Human rights abuses included arbitrary or unlawful killings by police, police abuse of detainees, poor prison conditions, police corruption and impunity, lengthy pretrial detention, infringement of citizens' privacy rights, government corruption, violence and discrimination against women and children, discrimination against persons with disabilities, intertribal violence, violence against ethnic Asians, and ineffective enforcement of labor laws.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, police killed a number of persons during the year. According to police reports, most killings occurred during gunfights with criminal suspects who were resisting arrest. However, public concern about police violence persisted.

There were no further known developments in the following cases involving police actions: the 2008 death of a young man resulting from a shootout between police and youths in Kimbe Province; the 2008 police killings of three gunmen who tried to rob the Bank South Pacific in West New Britain; the March 2007 shooting of three persons in which one person died and two were injured; the May 2007 shooting of three persons, two of whom died; and the 2007 shooting death of Jeffrey Kui.

There were numerous press reports during the year of vigilante killings and abuses related to alleged involvement in sorcery and witchcraft. For example, in January a group of men in Mount Hagen reportedly stripped a woman naked, bound her hands and feet, stuffed a cloth in her mouth, and burned her alive for allegedly confessing to have eaten a man's heart. Amnesty International (AI) reported that in February local residents shot and killed a man from Ban village near Mount Hagen and threw his body into a fire. They then dragged the man's son from his home and burned him alive. When police arrived and attempted to investigate the deaths, heavily armed local residents prevented them from removing the bodies to a hospital for autopsies. In September the National newspaper reported that members of a community in Sandaun Province beat to death three men for allegedly performing witchcraft on a local resident prior to the resident's death on September 1. Police had taken the three men into custody, but community members negotiated their release after assuring police that the men would not be harmed. However, enraged community members killed the men later the same night.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution prohibits such practices; however, individual police members frequently beat and otherwise abused suspects during arrests and interrogations, and in pretrial detention. There were numerous press accounts of such abuses, particularly against young detainees.

In April authorities arrested five police officers in connection with the alleged rape of a cleaning woman at a police station in Port Moresby; the authorities were investigating the case at year's end.

There were no further known developments in the June 2008 police shooting that resulted in the amputation of the suspect's leg, the August 2008 police shooting and wounding of bank robbery suspect William Kapris, the 2007 case in which an auxiliary police officer in Rabaul allegedly shot and injured a high school student, or the 2007 alleged police beating of a soldier in Port Moresby.

On September 22, a National Court judge found seven members of the police force in Madang liable for breach of basic human rights of five young men in 2004. The prosecution claimed that the police officers forced two of the five detainees to have sex with each other. In addition the prosecution alleged that the policemen subjected the detainees to torture and held them for three weeks without charges. The court found the seven policemen, as well as their commissioner and the government, liable. At year's end damages were pending assessment.

Prison and Detention Center Conditions.—Despite minor improvements to existing cells and increased capacity, prison conditions generally remained poor, and the prison system continued to suffer from serious underfunding. Of the four prisons that remained closed during most of 2008, two were reopened, and two—in Tari, Southern Highlands and Daru, Western Province—remained closed due to tribal conflicts and health concerns, respectively. Neither prisons nor police detention centers had medical care facilities. In some police holding cells, detainees lacked bedding and sufficient food and water. Overcrowding in prisons and police cells remained a serious problem. The Correctional Services deputy commissioner for operations confirmed that the country's prisons had a holding capacity of 3,600 beds, but the number of inmates at year's end was 4,901, approximately half of whom were pretrial detainees. There were 226 female and 238 juvenile prisoners. While there were some improvements in the pace of police investigations and an increase in the number of judges in the magistrates' courts and the National Court, in some areas infrequent court sessions, slow police investigations, and bail restrictions for certain crimes continued to exacerbate overcrowding. Prison escapes were common, even from high-security installations.

Male and female inmates usually were held separately, but some rural prisons lacked separate facilities, and there were reports in the past of assaults on female prisoners. There were no separate facilities for juvenile offenders; however, in some prisons juveniles were provided with separate sleeping quarters. To hold minors waiting to be arraigned prior to bail being posted, there were three juvenile reception centers located in Port Moresby, Lae, and Goroka. Human Rights Watch reported that juveniles routinely were held with adults in police detention cells, where in many cases they were assaulted by older detainees. Police denied juvenile court officers access to police cells. Pretrial detainees were held in the same prisons as convicted prisoners but had separate cells.

The government permitted monitoring visits by independent human rights observers, and one such visit was made during the year.

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

Role of the Police and Security Apparatus.—A commissioner who reports to the minister for internal security heads the national police force, the Royal Papua New Guinea Constabulary. Internal divisions related to clan rivalries and a serious lack of resources negatively affected police effectiveness. Police corruption and impunity were serious problems. At year's end there were no reports of any action taken against officers who in 2007 allegedly assaulted the director of police prosecutions in Port Moresby.

Police shootings are investigated by the police department's Internal Affairs Office and reviewed by a coroner's court. If the court finds that the shooting was unjustifiable or due to negligence, the police officers involved are tried. Families of persons killed or injured by police may challenge the coroner's finding in the National Court, with the assistance of the Public Solicitor's Office. Cases of accidental shootings of bystanders by police during police operations are also investigated and reviewed by a coroner's court. Despite these prescribed procedures, in many cases investigations remained unresolved.

There is an Ombudsman Commission that deals with public complaints and concerns about members of the police force.

Arrest Procedures and Treatment While in Detention.—Under the law, to make an arrest police must have reason to believe that a crime was committed, is in the course of being committed, or will be committed. A warrant is not required, and police made the majority of arrests without one. Citizens may make arrests under the same standards as the police, but this was rare in practice. Police, prosecutors, and citizens may apply to a court for a warrant; however, police normally did so only if they believed it would assist them in carrying out an arrest.

Only National or Supreme Court judges may grant bail to persons charged with willful murder or aggravated robbery. In all other cases, police or magistrates may grant bail. Arrested suspects have the right to legal counsel, to be informed of the charges against them, and to have their arrests subjected to judicial review; however, the government did not always respect these rights. Detainees had access to counsel, and family members had access to detainees.

Due to very limited police and judicial resources and a high crime rate, suspects often were held in pretrial detention for lengthy periods. Although pretrial detention is subject to strict judicial review through continuing pretrial consultations, the slow pace of police investigations, particularly in locating witnesses, and occasional political interference or police corruption frequently delayed cases for months. Additionally, circuit court sittings were infrequent because of shortages of judges and travel funds. Some detainees were held in jail for up to two years because of the shortage of judges.

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice.

Trial Procedures.—The legal system is based on English common law. The law provides for due process, including a public trial, and the court system generally enforced these provisions. Judges conduct trials and render verdicts; there are no juries. Defendants have the right to an attorney. The Public Solicitor's Office provides legal counsel for those accused of "serious offenses" (charges for which a sentence of two years or more is the norm) who are unable to afford counsel. Defendants and their attorneys may confront witnesses, present evidence, access government-held evidence, plead cases, and appeal convictions. The shortage of judges created delays in both the process of trials and the rendering of decisions.

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

Civil Judicial Procedures and Remedies.—There is an independent and impartial judiciary in civil matters. District courts may order “good behavior bonds,” commonly called “protection orders,” in addition to ordering that compensation be paid for violations of human rights. However, courts had difficulty enforcing judgments. Additionally, many human rights matters were handled by village courts, which were largely unregulated. Village and district courts often were hesitant to interfere directly in domestic matters. Village courts regularly ordered that compensation be paid to an abused spouse’s family in cases of domestic abuse rather than issue a domestic court order.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution prohibits such actions; however, there were instances of abuse. Police raids and searches of illegal squatter settlements and homes of suspected criminals often were marked by a high level of violence and property destruction. Police units operating in highland regions sometimes used intimidation and destruction of property to suppress tribal fighting.

In December 2008 police evicted approximately 400 persons from a squatter settlement in Port Moresby by bulldozing and burning down their homes in response to the murder of prominent businessman Sir George Constantinou, allegedly by residents in the settlement. Police stated that they had given the settlers three days’ notice to move out. The government did not provide any temporary accommodation, transportation, or food to the squatters.

According to reports by local media and AI, police burned down 50 houses in the Porgera District on April 27, during a police crackdown on lawlessness and illegal mining in the area. Police stated that the occupants were illegal squatters engaged in illegal mining and other criminal activities. A number of landowners in Porgera subsequently filed suit against the police, charging that during the operation police also destroyed more than 300 homes of legal residents who lived near the mining area.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of speech and of the press, and the government generally respected these rights in practice. All newspapers included a variety of editorial viewpoints and reported on controversial topics. There was no evidence of officially sanctioned government censorship; however, newspaper editors complained of intimidation tactics aimed at influencing coverage.

In 2008 the managing director, editors, and subeditors of the daily newspaper *Post Courier* reportedly were referred to the Parliamentary Privileges Committee over coverage of a diplomatic scandal involving a foreign government. However, the *Post Courier* confirmed that the government did not follow through with such a referral, and the journalists were not called before the committee. Journalist Simon Eroro, who had received threats related to the case, was still working for the *Post Courier* at year’s end.

Internet Freedom.—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. In practice cost factors and lack of infrastructure limited public access to the Internet. The International Telecommunication Union reported that in 2008 approximately 2 percent of the country’s inhabitants used the Internet.

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

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The constitution provides for freedom of assembly; however, the government often limited this right in practice. Public demonstrations require police approval and 14 days’ notice. Asserting a fear of violence from unruly spectators, police rarely gave approval.

In October police denied approval for a march and rally planned by the Papua New Guinea Council of Churches and the Salvation Army in support of the UN campaign “Stand Up, Take Action” against poverty. Also in October, police prevented a protest from being held in Madang against the building of a marine industrial park in Vidar.

Freedom of Association.—The constitution provides for freedom of association, and the government generally respected this right in practice.

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

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

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

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

Protection of Refugees.—Although a party to the 1951 Convention relating to the Status of Refugees and its 1967 protocol, the government has not enacted enabling legislation and has not established a system for providing protection to refugees. The government did not grant refugee status or asylum. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention or its 1967 protocol.

With support from the UNHCR, the government continued to provide protection to approximately 2,700 persons residing at the East Awin refugee settlement who fled the Indonesian province of West Papua (formerly Irian Jaya). Another 5,000 such persons, classified by the government as “border crossers,” lived in villages adjacent to the border with Indonesia. During the year approximately 300 West Papuans who had been living in Papua New Guinea for many years voluntarily returned to West Papua Province in Indonesia under a voluntary repatriation program.

Registered refugees residing in the East Awin refugee settlement were granted a residence permit that allowed them to travel freely within the country and, on a case-by-case basis, to travel abroad, depending on the urgency of the business and a guarantee of financial support by sponsoring institutions.

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

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic but flawed elections based on universal suffrage.

Elections and Political Participation.—The most recent general election was held in 2007. Bribery, voter intimidation, and undue influence were widespread in some parts of the country during the election. After the election the National Court registered 53 election petitions that alleged illegal practices. By year’s end 28 petitions were dismissed and 14 were withdrawn, two by-elections and four judicial recounts were ordered, and court decisions were pending on the remaining five petitions.

Election-related violence erupted between supporters of two rival candidates in the weeks leading up to the November by-election for the Kandep open electorate in Enga Province, reportedly resulting in at least two deaths and a number of injuries. Due to the violence, the by-election polling, originally scheduled for one day, was spread out over a week. In November the government reported that a total of 275 persons, mostly polling and electoral officials, were held against their will for nearly three days at two different locations by supporters of two of the candidates before being freed by mobile police squads.

Political parties could operate without restriction or outside influence.

There is no law limiting political participation by women, but the deeply rooted patriarchal culture impeded women’s full participation in political life. There was one woman in the 109-seat Parliament. She served as minister of community development, the only cabinet position held by a woman. There was one female National Court justice and no female provincial governors. A 2008 proposal for three nominated seats for women to increase the number of women in Parliament failed to pass during the year.

There were six minority (non-Melanesian) members of Parliament. Of these, two were in the cabinet, and three were provincial governors.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials often engaged in corrupt practices with impunity.

Corruption at all levels of government was a serious problem due to weak public institutions, leadership, and governance; lack of transparency; politicization of the bureaucracy; and the use of public resources to meet traditional clan obligations.

In February former Southern Highlands governor Hami Yawari was charged with misappropriating more than 300,000 kina (approximately \$116,730) belonging to the provincial government. At year's end this and other cases involving Yawari were awaiting assignment of trial dates before the National Court. In March the Ombudsman Commission announced it was freezing funds in the rehabilitation education sector infrastructure trust accounts (RESI) pending further investigation after it determined that none of the more than 37 million kina (approximately \$14.4 million) withdrawn from the RESI accounts had been spent on improving educational establishments. Investigation of the matter continued at year's end. In April the government suspended the Police Association president, Robert Ali, and members of his executive committee pending investigation of alleged misappropriation of more than 500,000 kina (approximately \$194,550) of association funds. The case remained pending at year's end.

The Ombudsman Commission was still investigating the May 2008 case involving allegations that representatives of a foreign government had offered 80 million kina (approximately \$31.1 million) to government officials in exchange for establishing diplomatic relations and a separate 2008 case in which the media claimed that a government minister had 100 million kina (approximately \$38.9 million) in a foreign bank account. At year's end no investigation reports on either case had been released.

Public officials are subject to financial disclosure laws as stipulated in the leadership code of conduct. The Ombudsman Commission, the Leadership Tribunal, and the Public Accounts Committee are key organizations responsible for combating government corruption.

No law provides for public access to government information. The government published frequent public notices in national newspapers and occasional reports on specific topics facing the government; however, it generally was not responsive to individual requests, including media requests, for access to government information.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

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

On the evening of December 11, unknown assailants shot and wounded Chief Ombudsman Commissioner Chronex Manek as he returned home from an official function. Manek reported that three men armed with guns jumped out of a vehicle that had followed him home, surrounded his vehicle, and shot him twice through his car window as he rammed his car into their vehicle in an attempt to escape. The assailants then fled the scene. Manek was treated at a local hospital for a bullet wound in his arm and later released. The authorities were investigating the incident at year's end.

The government cooperated with international governmental organizations and permitted visits by UN representatives and other organizations.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution provides for equal protection under the law irrespective of race, tribe, place of origin, color, or sex; however, enforcement of the provisions was not effective.

Women.—Violence against women, including domestic violence and gang rape, was a serious and prevalent problem.

Rape, including spousal rape, is a crime punishable by imprisonment, and prison sentences were imposed on convicted assailants, but few rapists were apprehended. The willingness of some communities to settle incidents of rape through material compensation rather than criminal prosecution made the crime difficult to combat. The legal system allows village chiefs to negotiate the payment of compensation in lieu of trials for rapists.

Domestic violence was common and is a crime. However, since most communities viewed domestic violence as a private matter, few victims pressed charges, and prosecutions were rare. Widespread sexual violence committed by police officials and

their unresponsiveness to complaints of sexual or domestic violence served as barriers to reporting by both women and men. Traditional village mores, which served as deterrents against violence, were weak and largely absent when youths moved from their villages to larger towns or to the capital. AI reported that there were only three shelters for abused women in Port Moresby, all privately run; the situation was even worse outside the capital.

Violence committed against women by other women frequently stemmed from domestic disputes. In areas where polygyny was customary, an increasing number of women were charged with murdering one of their husband's other wives. Independent observers indicated that 90 percent of women in prison had been convicted for attacking or killing another woman.

Prostitution is illegal; however, the laws were not enforced, and the practice was widespread. Sexual harassment is not illegal, and it was a widespread problem.

Under the country's family planning policy, couples and individuals have the right to decide freely and responsibly the number, spacing and timing of their children free from violence and coercion. However, in practice the decision of the husband or male partner on such matters usually prevailed over the wishes of the woman. Access in practice to contraception and adequate obstetric and postnatal care was hindered by logistical problems faced by the Health Department in distributing supplies. Medical facilities also were limited in their capacity to provide adequate services to the growing population. Women and men had equal access to diagnosis and treatment for sexually transmitted infections, including HIV.

The laws have provisions for extensive rights for women dealing with family, marriage, and property disputes. Some women have achieved senior positions in business, the professions, and the civil service; however, traditional discrimination against women persisted. Many women, even in urban areas, were considered second-class citizens. Women continued to face severe inequalities in all spheres of life: social, cultural, economic, and political. There is no employment antidiscrimination law.

Village courts tended to impose jail terms on women found guilty of adultery while penalizing men lightly or not at all. By law a district court must endorse orders for imprisonment before the sentence is imposed, and circuit-riding National Court justices frequently annulled such village court sentences. Polygyny and the custom in many tribal cultures of paying a "bride price" tended to reinforce the view that women were property. In addition to the purchase of women as brides, women sometimes were given as compensation to settle disputes between clans, although the courts have ruled that such settlements denied the women their constitutional rights.

According to statistics published by the UN Educational, Social, and Cultural Organization, women continued to lag behind men in literacy and education; 53 percent of women were literate, compared to 62 percent of men. The Ministry of Community Development was responsible for women's issues and had considerable influence over the government's policy toward women.

Children.—Citizenship is derived through birth to a citizen parent.

Independent observers generally agreed that the government did not dedicate significant resources to protecting the rights and welfare of children. Religious and secular nongovernmental organizations (NGOs) operated programs to protect and develop youth and children.

Primary education was not free, compulsory, or universal. Substantial fees were charged and posed a significant barrier to children's education. Many children did not progress further than primary school.

Boys and girls had equal access to medical care, but many children did not receive effective care. Government-provided free medical care for citizens, including children, was no longer available due to budget cuts and deteriorating infrastructure, particularly in rural areas.

Sexual abuse of children was believed to be frequent. Independent sources confirmed that in two major cities, 1,000 or more cases of child sexual abuse were reported during the year. Incest is a crime and reportedly increased in frequency. There were cases of commercial sexual exploitation of children between the ages of 14 and 16 in urban areas, including minors working in bars and nightclubs. Human Rights Watch documented numerous instances of police abuse of children.

The legal age for marriage is 18 for boys and 16 for girls. There is a lower legal marriage age (16 for boys and 14 for girls) with parental and court consent. However, customary and traditional practices allow marriage of children as young as age 12, and child marriage was common in many traditional, isolated rural communities. Child brides frequently were taken as additional wives or given as brides to pay family debts and often were used as domestic servants. Child brides were particularly vulnerable to domestic abuse.

The minimum age for consensual sex is 16. The maximum penalty for violators is 25 years' imprisonment or if the child is under age 12, life imprisonment. Child pornography is illegal. Penalties range from a minimum of five to a maximum of 15 years' imprisonment.

Trafficking in Persons.—The law does not prohibit all forms of trafficking in persons. The criminal code does not prohibit the trafficking of adults, but prohibits the trafficking of children for sexual exploitation or slavery. There were reports of trafficking of women and girls within the country for sexual exploitation and domestic servitude. Custom requires the family of the groom to pay a "bride price" to the family of the bride. While marriages were usually consensual, women and girls were sometimes sold against their will. There also were reports of Asian women being trafficked into the country to work in the sex industry. Transactional sex was common and often involved the sexual exploitation of children. There were reports of men trafficked to mining and logging camps for the purpose of forced labor.

Asian organized crime groups, foreign logging companies, and Papuan businessmen were believed to lure the majority of foreign trafficking victims to the country with false offers of legitimate jobs.

The government investigated allegations of corruption among officials dealing with passport issuance and immigration. The allegations primarily involved the illegal issuance of residence and work permits for Chinese or South Asian nationals migrating to the country. Although they originally suspected that corrupt officials were aiding the transport of trafficking victims into the country, authorities did not uncover any evidence that mala fide permits and passports were used for this purpose. Nevertheless, there was concern that the country may have been used as a route for trafficking in persons to Australia through different means.

The maximum penalty for slavery-related offenses is 20 years' imprisonment. The Ministry of Justice is responsible for enforcing the law but was ineffective in doing so. There were no prosecutions for trafficking in persons during the year. The Ministry of Justice conducted an antitrafficking workshop during the year.

There were no government programs to assist trafficking victims.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The constitution prohibits discrimination against persons with physical or mental disabilities; however, there are no antidiscrimination laws. Persons with disabilities faced discrimination in education, training, and employment. No legislation mandates accessibility to buildings, and most buildings were not accessible.

Through the National Board for the Disabled, the government granted funds to a number of NGOs that provided services to persons with disabilities. The government provided free medical consultations and treatment for persons with mental disabilities, but such services were rarely available outside major cities. In several provinces, apart from the traditional clan and family system, services and health care for persons with disabilities did not exist. Most persons with disabilities did not find training or work outside the family structure.

National/Racial/Ethnic Minorities.—Centuries-old animosities among isolated tribes, a persistent cultural tradition of revenge for perceived wrongs, and the lack of police enforcement sometimes resulted in violent tribal conflict in the highland areas. In the last few years, the number of deaths resulting from such conflicts continued to rise due to the increased availability of modern weapons.

During the year tribal fighting continued in Western and Eastern Highlands Provinces. In March several hundred members of the Watut tribe raided Biangai tribe villages in Bulolo District, Morobe Province, burning houses, looting properties, and destroying food gardens. Government officials established a peace mediation team to settle the conflict between the two tribes. An agreement was signed between the Morobe provincial government (MPG) and the affected ethnic groups to resolve the matter amicably and in accordance with the law. The MPG also established a Law and Order Committee responsible for coordinating and overseeing all current and future peace mediation efforts in the province. At year's end tensions remained between the two groups, but there was no further violence.

In early May three Chinese employees of the predominantly Chinese-owned Ramu nickel-cobalt mining project were seriously injured in an attack by a group of Papua New Guinea workers who reportedly were angry about working conditions at the site (see section 7.e.). On May 12, violence broke out during a protest march organized in Port Moresby by the organization "NGOs and Civil Society Group" to press authorities to clamp down on the influx of Asians into the country. The protesters alleged that Asian immigrants were taking over cottage industries they thought should be reserved for citizens. Some protesters and others looted shops run by

Asians. By May 14, the violence had subsided in the capital as many Asian-owned businesses closed as a precaution. However, over the following days, violence erupted in the cities of Lae and Madang and in several Highlands towns as crowds attacked Asian businesses there. According to press reports, thousands of persons were involved in the looting before police were able to contain the situation. One looter in Lae reportedly was hacked to death and another trampled to death. Some injuries were reported, including several looters shot by police. The authorities subsequently apologized for the violence, and the government announced the appointment of a bipartisan parliamentary committee to investigate the violence, assess its causes, and review the types of businesses operated by Asians in the country. In November, however, three members of Parliament resigned from the committee to protest the ousting of its chairman; according to press reports, Parliament voted to replace the chairman after he indicated the committee would expose involvement of certain politicians in questionable activities with Asian individuals. The committee had not produced a report by year's end.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Sodomy and acts of “gross indecency” between male persons are illegal. The maximum penalty for sodomy is 14 years’ imprisonment, and for acts of gross indecency between male persons (a misdemeanor), it is three years. However, there were no reports of prosecutions directed at lesbian, gay, bisexual, or transgender (LGBT) persons under these provisions during the year. There were no specific reports of societal violence or discrimination against LGBT persons, but they were vulnerable to societal stigmatization.

Other Societal Violence or Discrimination.—There were no reports of government discrimination against persons with HIV/AIDS; however, there was a strong societal stigma attached to HIV/AIDS infection that prevented some individuals from seeking HIV/AIDS-related services. Unlike in some previous years, there were no known reports that companies dismissed HIV-positive employees after learning of their condition. The nongovernmental Business Coalition against HIV/AIDS worked to combat discrimination against persons with HIV/AIDS.

Section 7. Worker Rights

a. The Right of Association.—The law provides for the right to form and join labor unions, subject to registration by the Department of Labor and Industrial Relations (DLIR), and workers exercised this right in practice. The government did not use registration to control unions; however, an unregistered union has no legal standing and thus cannot operate effectively. An estimated half of the approximately 250,000 wage earners in the formal economy were members of approximately 50 trade unions. The Public Employees Association represented an estimated 12,000 persons employed by national, provincial, and municipal governments, or one-third of the public-sector workforce. Unions were independent of both the government and political parties.

The law provides for the right to strike, although the government may and often did intervene in labor disputes to require arbitration before workers may legally strike. The law prohibits retaliation against strikers, but it was not always enforced. The DLIR is responsible for enforcement. Employees of some government-owned enterprises went on strike on several occasions during the year, primarily to protest against privatization policies or in pay disputes. In most cases the strikes were brief and ineffective.

b. The Right to Organize and Bargain Collectively.—The law provides for the right to organize and engage in collective bargaining, and workers exercised these rights in practice. However, under the law the government has discretionary power to cancel arbitration awards or declare wage agreements void when they are contrary to government policy. The DLIR and the courts are involved in dispute settlement. Wages above the minimum wage were set through negotiations between employers and employees or their respective industrial organizations.

The law prohibits antiunion discrimination by employers against union leaders, members, and organizers; however, the DLIR enforced the law selectively.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The constitution prohibits forced or compulsory labor, and there were no reports that such practices occurred in the formal economy. Some children were obliged to work long hours as domestic servants in private homes (see section 7.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law establishes the minimum working age as 16; for hazardous work, the minimum age is 18. However, children between the ages of 11 and 18 may be employed in a family business or enterprise provided they have parental permission, a medical clearance,

and a work permit from a labor office. This type of employment was rare, except in subsistence agriculture. Work by children between the ages of 11 and 16 must not interfere with school attendance. Some children under 18 worked in bars and nightclubs and were vulnerable to commercial sexual exploitation. Children also were exploited in the production of pornography. There were children selling cigarettes, food, CDs, and DVDs on the street and in grocery stores near mine and logging camps. Some children (primarily girls) worked long hours as domestic servants in private homes, often to repay a family debt to the "host" family. In some cases the host family was a relative who had informally "adopted" the child. The DLIR is responsible for enforcing child labor laws.

e. Acceptable Conditions of Work.—The Minimum Wage Board, a quasi-governmental body with labor and employer representatives, sets minimum wages for the private sector. In April the board increased the minimum wage to 100.80 kina (approximately \$39) per week and also abolished the separate, lower youth wage for new entrants into the labor force between ages 16 and 21. Although it was above the national per capita income, the minimum wage did not provide a decent standard of living for a worker and family who lived solely on the cash economy.

The law regulates minimum wage levels, allowances, rest periods, holiday leave, and overtime. The law limits the workweek to 42 hours per week in urban areas and 44 hours per week in rural areas, and it provides for premium pay for overtime work. The law provides for at least one rest period of 24 consecutive hours every week. Although the DLIR and the courts attempted to enforce the law, they were not effective.

The DLIR is also responsible for enforcing the Industrial Health and Safety Law and related regulations. The law requires inspection of work sites on a regular basis; however, due to a shortage of inspectors, inspections took place only when requested by workers or unions.

Workers' ability to remove themselves from hazardous working conditions varied by workplace. Unionized workers had some measure of protection in such situations. The law protects legal foreign workers. The few illegal foreign workers lacked full legal protection.

In May fighting broke out between Chinese and Papua New Guinea workers at the predominantly Chinese-owned Ramu nickel-cobalt mining project; the local workers reportedly were angry at the project's Chinese managers following an industrial accident at the site. In July the authorities ordered construction work halted at the project. In August the project resumed, reportedly following resolution of a number of health and safety issues.

PHILIPPINES

The Philippines, with a population of 92 million, is a multiparty republic with an elected president and bicameral legislature. In 2007 approximately 73 percent of registered citizens voted in mid-term elections for both houses of congress and provincial and local governments. The election generally was free and fair but was marred by violence and allegations of vote buying and electoral fraud. Long-running Communist and separatist insurgencies affected the country. Civilian authorities generally maintained effective control of the security forces; however, there were some instances in which elements of the security forces acted independently.

Arbitrary, unlawful, and extrajudicial killings by elements of the security services and political killings, including killings of journalists, by a variety of actors continued to be major problems. Concerns about impunity persisted. Members of the security services committed acts of physical and psychological abuse on suspects and detainees, and there were instances of torture. Prisoners awaiting trial and those already convicted were often held under primitive conditions. Disappearances occurred, and arbitrary or warrantless arrests and detentions were common. Trials were delayed, and procedures were prolonged. Corruption was endemic. Leftist and human rights activists often were subject to harassment by local security forces. Problems such as violence against women, abuse of children, child prostitution, trafficking in persons, child labor, and ineffective enforcement of worker rights were common.

In addition to killing soldiers and police officers in armed encounters, the New People's Army (NPA)—the military wing of the Communist Party—and the Abu Sayyaf Group (ASG) killed local government officials and other civilians. The terrorist groups NPA and ASG reportedly used child soldiers in combat or auxiliary roles. Terrorist groups committed bombings causing civilian casualties and conducted kidnappings for ransom.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—Security forces and antigovernment insurgents committed a number of arbitrary and unlawful killings, including in connection with an increase in fighting between government forces and Muslim rebels in central Mindanao (see section 1.g.). The Commission on Human Rights (CHR), an independent government agency, investigated 57 new complaints of politically motivated killings that occurred from January through November. The CHR suspected personnel from the Philippine National Police (PNP) and the Armed Forces of the Philippines (AFP) in some killings of leftist activists operating in rural areas. Suspects in other cases were ordinary citizens or remained unknown. The nongovernmental organization (NGO) Task Force Detainees of the Philippines (TFDP) investigated allegations of summary executions by government security forces. The TFDP was unable to investigate all of these allegations, but it counted eight cases involving 12 victims of summary executions by government forces during the year.

By year's end the PNP's Task Force Usig, responsible for monitoring extrajudicial killings, recorded 156 cases of killings since 2001, nine of which occurred during the year. Of these, 95 cases were filed in court and prosecutor's offices, 60 cases were under investigation, and one case was closed. There was one conviction of a state actor during the year. One human rights organization recorded 134 victims of extrajudicial killings during the year.

On May 15, President Gloria Arroyo abolished the Interagency Legal Action Group, which some human rights groups alleged was a tool for targeting activists. The PNP expanded human rights training and community outreach efforts during the year and maintained a network of 1,841 human rights desk officers at the national, regional, provincial, and municipal levels.

Human rights groups and the CHR noted little progress in implementing and enforcing some reforms aimed at decreasing the incidence of killings. For example, cooperation and coordination between police and prosecutors continued to be a problem. Funding for the CHR and the government witness protection programs was considered inadequate.

Killings during the year included the following: On March 4, unidentified armed men in Davao City abducted and killed Rebelyn Pitao, a schoolteacher and daughter of a high-ranking Communist leader. At year's end the CHR investigation into the case continued. On March 9, two unidentified men shot and killed antimining activist Eliezar Billanes, chair of the South Cotabato People's Alliance for Nationalism and Development in Koronadal City, South Cotabato. A CHR investigation into the case continued. On April 29, two unidentified assailants shot and killed indigenous people's mining activist and farmer group leader Ludenio Monzon in Boston, Davao Oriental. The police were investigating the case but did not establish a motive for the killing. In October 2008 Monzon filed a harassment case against the military at the CHR regional office. On June 10, three unidentified men shot and killed Fermin Lorico, leader of an activist peasant group, in Dumaguete City. The group accused the military. At year's end the PNP was investigating. On September 6, armed men shot and killed Catholic priest Cecilio Lucero in San Jose, Northern Samar. Lucero was chairman of the task force on peace and order of the Diocese of Catarman and was involved in the investigation of human rights abuses.

On November 23, a group of up to 100 unidentified armed men killed at least 57 individuals, including women, 30 media workers, and several relatives of Buluan Vice Mayor Esmael Mangudadatu in Ampatuan, Maguindanao. The victims were en route to file a certificate of candidacy for the vice mayor to run in the Maguindanao gubernatorial race. The authorities charged political rival Andal Ampatuan, Jr., with 25 counts of murder on December 1. Eleven other suspects, including the patriarch of the powerful Ampatuan clan, former Maguindanao governor Andal Ampatuan, Sr., seven Ampatuan relatives, and law enforcement personnel were also indicted. Some 1,000 police officers were relieved and transferred to other provinces in the Autonomous Region in Muslim Mindanao (ARMM) pending investigation of the case. On December 4, President Arroyo declared martial law in parts of the province, and more than 4,000 troops were deployed to arrest massacre suspects and break up armed groups who threatened public safety. Martial law was lifted eight days later, and CHR observers reported no human rights abuses by soldiers during the period. Investigations into the case continued at year's end, and suspects remained jailed pending indictments.

Investigations of cases from 2007 and 2008 were ongoing.

On March 26, a regional trial court judge sentenced former police superintendent Rafael Cardeno to life imprisonment for masterminding the 2001 murder of Young

Officers Union spokesperson Baron Cervantes. The judge ordered Cardeno to pay Cervantes' family 350,000 pesos (approximately \$7,350) in civil and moral damages.

Government forces killed a number of civilians during clashes with armed groups (see section 1.g.). Terrorist groups killed and kidnapped NGO workers, teachers, and other civilians. In October the ASG kidnapped school principal Gabriel Canizares; he was later beheaded after his family was not able to pay a ransom of two million pesos (approximately \$42,000). Communist insurgents, mainly from the NPA, continued to kill political figures, military and police officers, and civilians, including suspected military and police informers. Extortion groups associated with the ASG killed persons in bombings (see section 1.g.).

On July 5, a bomb outside the Cathedral of the Immaculate Conception in Cotabato City killed six and wounded 30 others as they were leaving worship service. On July 7, two more bombs exploded in Jolo City, killing two persons and injuring 50.

On August 24, security forces arrested Dinno-Amor Pareja, the leader of the terrorist Raja Solaiman Movement and a principal suspect in the 2005 Valentine's Day bombing in Manila and several other bombings in Mindanao. On January 23, a Manila court sentenced three members of the Moro Islamic Liberation Front (MILF) to life terms for their parts in bombing attacks in 2000 that killed 22 persons.

Vigilante groups were suspected of conducting summary killings of adult criminals and children involved in petty crime in five major cities and in the Metro Manila region. The Coalition Against Summary Execution recorded 76 apparent vigilante killings in Davao City from January through July. The CHR held public hearings on the killings and continued its investigations during the year. The international NGO Human Rights Watch report on the Davao killings concluded that members of the police and local officials were involved or complicit.

Vigilante killings also allegedly occurred in Cebu City, Cagayan de Oro, Tagum City, and General Santos City. The victims were suspected of involvement in criminal activities, and the killings appeared to have popular support. Authorities made no arrests in these cases.

In April UN Special Rapporteur Philip Alston issued a follow-up report to his 2007 mission, which noted the lack of prosecutions for extrajudicial killings and an increase in vigilante killings.

b. Disappearance.—According to local human rights NGOs, government forces were responsible for disappearances. From January through November, the CHR investigated nine new cases of enforced disappearances, abductions, and kidnappings involving 15 victims, some of whom had been detained without a warrant (see section 1.d.). Seven cases remained under investigation; two cases were closed when the two persons involved appeared and confirmed that no government actors were involved in their cases. An additional six persons were accounted for: Three were found alive in police custody; unknown captors detained and later released two; and the sixth victims died at the hands of his abductors (see section 1.g.). Seven persons remained missing. The CHR suspected members of the military in three unresolved cases. Suspects in the other cases remained unidentified. The NGO Families of Victims of Involuntary Disappearances (FIND) monitored 12 reported disappearance cases involving 20 victims, most of whom were later found alive.

A foreign citizen of Filipino descent claimed that she and two others were abducted and tortured by members of the military in Tarlac. An investigation was ongoing (see section 1.c.).

On February 19, the regional trial court in La Trinidad, Benguet, approved a petition for a writ of amparo, providing the court's protection to the family of indigenous rights activist James Balao, who disappeared in 2008. The respondents appealed the case with the Office of the Solicitor General, and at year's end the case was pending before the Supreme Court.

Some victims' families complained that the courts and police failed to address adequately their complaints concerning disappearances in which security forces were suspected. Evidence of a kidnapping or killing is required to file charges. FIND and other NGOs continued to support the efforts of victims' families to press charges. In most cases evidence and documentation were unavailable, and convictions were rare.

There were no developments in earlier disappearance cases, and there were no convictions for disappearance cases during the year. Investigative and judicial inaction on previous cases of disappearance contributed to a climate of impunity and undermined public confidence in the justice system.

Terrorist and criminal groups committed a number of kidnappings for ransom in the southern Philippines (see section 1.g.).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution prohibits torture, and evidence obtained through its use is inadmissible in court; however, members of the security forces and police were alleged to have routinely abused and sometimes tortured suspects and detainees. On November 10, President Arroyo signed the Anti-Torture Law that criminalizes acts of torture. Penalties range from one month to life in prison, depending on the gravity of the offense. The law also provides rehabilitation and compensation of not less than 10,000 pesos (\$210) to victims of torture and their families.

The CHR and human rights groups reported that excessive force and torture remained an ingrained part of the arrest and detention process. Common forms of abuse during arrest and interrogation included electric shock, cigarette burns, or suffocation.

From January through December, the TFDP documented 40 cases of torture involving 67 victims and alleged that security forces were responsible. From January to November, the CHR investigated 11 cases of alleged torture, with police, military, and other law enforcement officers identified as suspects in seven of the cases.

A foreign citizen of Philippine descent claimed she was abducted from La Paz, Tarlac, and held in a military camp in Nueva Ecija from May 19 to 25. She claimed she was tortured by her abductors and then released after they failed to get an admission that she was a member of the NPA. On August 26, the court of appeals granted her amparo and habeas data petitions but denied her request to name senior government officials as respondents in the case.

There were reports that prison guards physically abused inmates. The CHR and TFDP reported that abuse by prison guards and other inmates was common, but prisoners, fearing retaliation, refused to lodge formal complaints. Women in police custody were particularly vulnerable to sexual and physical assault by police and prison officials. The police sometimes punished officers who were found to have committed assault or abuse. Human rights activists believed suspected ASG and NPA members in captivity were particular targets for abuse.

There were alleged instances of rape perpetrated by officials of the PNP, and anecdotal reports of an increase in rape and sexual abuse charges filed against officers.

Prison and Detention Center Conditions.—Prison conditions were rudimentary and sometimes harsh. Provincial jails and prisons were overcrowded, lacked basic infrastructure, and provided prisoners with an inadequate diet. Jails managed by the Bureau of Jail Management and Penology (BJMP) operated at an average of 174 percent of designed capacity. Prison administrators allotted a daily subsistence allowance of 50 pesos (\$1.04) per prisoner. The Bureau of Corrections under the Department of Justice administered seven prisons and penal farms for prisoners sentenced to more than three years in prison. Lack of potable water, poor sanitation, and poor ventilation continued to cause health problems. Some prisoners, including women and children, were abused by other prisoners and prison personnel. The slow judicial process exacerbated overcrowding. A local NGO claimed that, since 2007, at least seven elderly prisoners diagnosed with serious illnesses have died in prison annually and blamed this problem on the “deficient” parole system. At year’s end the president granted executive clemency to 32 elderly persons.

There were reports of widespread corruption among prison guards and, to some extent, at higher levels of authority within the prison system.

According to BJMP regulations, male and female inmates are to be held in separate facilities and, in national prisons, overseen by guards of the same sex. Anecdotal reports suggested that these regulations were not uniformly enforced. In provincial and municipal prisons, male guards sometimes supervised female prisoners directly or indirectly. Although prison authorities attempted to segregate children or place them in youth detention centers, in some instances children were held in facilities not fully segregated from adult male inmates. Girls were sometimes held in the same cells as boys. As part of reform and budget reduction efforts during the year, the government consolidated women and minors into fewer jails, including some that contained separate facilities for those groups. Out of 1,011 jails managed by the BJMP and PNP, 190 had separate cells for minors, while 334 jails had separate cells for adult females. Lack of adequate food for minors in jails and prisons was a concern (see section 6, Children).

At year’s end the BJMP and PNP jails held a total 58,786 prisoners, 95 percent of whom were pretrial detainees. The remainder had been convicted of various crimes. Of the total number of sentenced prisoners and detainees, 5,448 were adult women, 316 were minor detainees, and 13 were convicted minors. During the year the BJMP released 342 minor inmates, usually in response to a court order following a petition by the public attorney’s office or the inmate’s private lawyer, or through the appeals of NGOs. The Bureau of Corrections’ prisons and penal farms had 35,934 prisoners, of whom 1,948 were women.

International monitoring groups, including the International Committee of the Red Cross (ICRC), were allowed free access to jails and prisons. However, a local NGO reported difficulty accessing jails or detentions centers where children were held.

d. Arbitrary Arrest or Detention.—The law requires a judicial determination of probable cause before issuance of an arrest warrant and prohibits holding prisoners incommunicado or in secret places of detention; however, in a number of cases, police and the AFP arrested and detained citizens arbitrarily. From January through July, the TFDP documented 78 cases of illegal arrest and detention involving 274 victims. The CHR tracked 48 cases of arbitrary arrest or detention from January to June. During the year the NGO FIND counted 16 abduction victims who were later found alive.

Role of the Police and Security Apparatus.—The Department of National Defense directs the AFP, which shares responsibility for counterterrorism and counterinsurgency operations with the PNP. The Department of Interior and Local Government directs the PNP, which is responsible for enforcement of law and order and urban counterterrorism; however, governors, mayors, and other local officials have considerable influence. The 125,000-member PNP has deep-rooted institutional deficiencies and suffered from a widely held and accurate public perception that corruption remained a problem. The PNP's Internal Affairs Service remained largely ineffective. Members of the PNP were regularly accused of torture, soliciting bribes, and other illegal acts. Efforts were underway to reform and professionalize the institution through improved training, expanded community outreach, and pay raises. During the year there were 177 administrative cases filed against members of the police force, including administrative officials and police officers, for various human rights violations. By year's end of the 177 cases filed, 137 were resolved and 40 were undergoing summary proceedings. In response to these cases the PNP dismissed 240 of its personnel. The deputy ombudsman for the military received 71 cases involving alleged human rights abuses by the military and law enforcement officers during the year, the majority of which were filed against low-ranking police and military officials. All of the cases were under investigation by the Deputy Ombudsman's Office at year's end.

The police and military routinely provided human rights training to their members, augmented by training from the CHR. The CHR noted that senior PNP officials appeared receptive to respecting the human rights of detainees, but rank-and-file awareness of the rights of detainees remained inadequate. The Commission on Appointments determines whether senior military officers selected for promotion have a history of human rights violations and solicits input from the CHR and other agencies during the course of its background investigations. In some instances a promotion can be withheld indefinitely when the commission uncovers a record of human rights abuses. Negative findings do not, however, preclude promotion, and there were no reports of promotions withheld on human rights grounds during the year.

The AFP did not aggressively pursue internal investigations into alleged serious human rights abuses by some of its members. As of August the AFP Human Rights Office monitored no new cases of killings, disappearances, or torture during the year.

Government-armed civilian militias supplemented the AFP and the PNP. Some politicians and clan leaders maintained their own private armies, particularly in Mindanao.

Arrest Procedures and Treatment While in Detention.—Citizens are apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official and are brought before an independent judiciary. However, there were some reports during the year of citizens picked up by security forces without a warrant and detained arbitrarily. Detainees have the right to a judicial review of the legality of their detention and, except for offenses punishable by a life sentence, the right to bail. From January through March, 2,076 detainees (4 percent of detainees) were able to post bail. The law provides that an accused or detained person has the right to a lawyer of his choice and that the state must provide one when the accused cannot afford one. Authorities are required to file charges within 12 to 36 hours for arrests made without warrants, with the time given to file charges increasing with the seriousness of the crime. Lengthy pretrial detention remained a problem. The BJMP released 39,746 inmates during the year as part of jail decongestion programs. There was no available data indicating the number of detainees who were released because they had been jailed for periods equal to or longer than the maximum prison terms they would have served if convicted. Large jails employed para-

legals to monitor inmates' cases to prevent detention beyond the maximum sentence and to assist decongestion efforts.

There were also reports that many children detained in jails were arrested without warrants.

Six labor and human rights activists arrested on criminal charges in 2008, including labor attorney Remigio Saladero, were released February 5 following an order from a local court. On November 13, the Rizal provincial prosecutor dismissed murder charges against Saladero and others for lack of probable cause.

The NPA, as well as some Islamic separatist groups, were responsible for a number of arbitrary detentions, including kidnappings and hostage-taking.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, the judicial system suffered from corruption and inefficiency. Personal ties and sometimes bribery resulted in impunity for some wealthy or influential offenders and contributed to widespread skepticism that the judicial process could ensure due process and equal justice. The Supreme Court continued efforts to ensure speedier trials, sanction judicial malfeasance, increase judicial branch efficiency, and raise public confidence in the judiciary. The Supreme Court dismissed or disciplined several judges during the year for various crimes and infractions.

The national court system consists of four levels: local and regional trial courts, a national court of appeals divided into 17 divisions, a 15-member Supreme Court, and an informal local system for arbitrating or mediating certain disputes outside the formal court system. The Sandiganbayan, the government's anticorruption court, hears criminal cases brought against senior officials. A Shari'a (Islamic law) court system, with jurisdiction over domestic and contractual relations among Muslim citizens, operates in some Mindanao provinces. The courts-martial, each composed of at least five active-duty military officers, hear cases against military personnel accused of violating the Philippine Articles of War. The president, the chief of staff of the armed forces, or a military unit commander may appoint the members of a court-martial. Military or security tribunals cannot try civilians.

On September 16, Judge Edimer Gumbahali of the Jolo, Sulu, Shari'a Circuit Court was shot and killed by unidentified gunmen. There were no available witnesses and no case was filed.

Trial Procedures.—The law provides that all persons accused of crimes be informed of the charges against them, have the right to counsel, and be provided a speedy and public trial before a judge. Defendants are presumed innocent and have the right to confront witnesses against them, to present evidence, and to appeal convictions. The authorities respected the right of defendants to be represented by a lawyer, but poverty often inhibited a defendant's access to effective legal representation. Skilled defense lawyers staffed the Public Attorney's Office (PAO), but their workload was large and resources were scarce. The PAO provided legal representation for all indigent litigants at trial; however, during arraignment, courts may at their option appoint any lawyer present in the courtroom to provide counsel to the accused.

The law provides that cases should be resolved within set time limits once submitted for decision: 24 months for the Supreme Court; 12 months for a court of appeals; and three months for lower courts. However, these time limits were not mandatory, and, in effect, there were no time limits for trials.

Lengthy pretrial detention remained a problem. Anecdotal evidence suggested that, in practice, trials can take six years or more. Trials take place in short sessions over time as witnesses and court time become available; these noncontinuous sessions created lengthy delays. Furthermore, there was a widely recognized need for more prosecutors, judges, and courtrooms. Judgeship vacancy rates were high; of the total 2,182 trial court judgeships (including Shari'a courts), 539 (25 percent) were vacant. Courts in Mindanao and poorer provinces had higher vacancy rates than the national average. Shari'a court positions were particularly difficult to fill because of the requirement that applicants be members of both the Shari'a Bar and the Integrated Bar. All five Shari'a district court judgeships and 39 percent of circuit court judgeships remained vacant. Shari'a courts do not have criminal jurisdiction.

Political Prisoners and Detainees.—Various human rights NGOs maintained lists of incarcerated persons they considered to be political prisoners. At year's end, the TFDP reported that there were 255 political prisoners. The majority of persons listed had not been convicted. Some NGOs asserted that it was frequent practice to make politically motivated arrests of persons for common crimes, or on fabricated charges, and to continue to detain them after their sentences expired.

The government used NGO lists as one source of information in the conduct of its pardon, parole, and amnesty programs, but it did not consider the persons listed to be political detainees or prisoners.

From January to December, the government released 80 persons whom NGOs claimed were political prisoners.

The government permitted access to alleged political prisoners by international humanitarian organizations.

Civil Judicial Procedures and Remedies.—The judiciary is independent and impartial in civil matters. There are administrative remedies as well as judicial remedies for alleged wrongs; however, corruption was widespread in the judiciary, and cases often were dismissed. Complainants have access to local trial courts to seek damages for, or cessation of, human rights abuses.

During the year the Supreme Court dismissed four petitions for writs of amparo, overturning earlier court approvals of writs in two cases. Nine other petitions remained pending. A petition for writ of amparo was filed during the year but was dismissed.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law provides that a judge may issue search warrants on a finding of probable cause; however, while the government generally respected restrictions on search and seizure within private homes, searches without warrants occurred. Judges generally declared evidence obtained illegally to be inadmissible.

The government generally respected the privacy of its citizens; however, leaders of communist organizations and rural-based NGOs complained of what they described as a pattern of surveillance and harassment.

Forced resettlement of urban squatters, who made up at least 30 percent of the urban population, continued during the year. The law provides certain protections for squatters; eviction was often difficult, especially because politicians recognized squatters' voting power. Government relocation efforts were constrained by budget problems, and the issuance of land titles to squatters was limited.

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—The government was engaged in combat with antigovernment forces and terrorists who actively sought to destabilize the country. Government forces killed a number of civilians during clashes with antigovernment forces. Some citizens' groups complained that the AFP, in confronting the ASG and the NPA, illegally detained citizens, destroyed houses, displaced residents, and shelled villages. Clashes between the AFP and forces of the separatist group MILF continued in central Mindanao during the first half of the year, resulting in the deaths of civilians and the displacement of hundreds of thousands of others. On July 25, the government and MILF signed an agreement to end hostilities and resume discussions on a comprehensive peace agreement.

Killings.—Government forces acknowledged the deaths of civilians in the course of military operations against the MILF, whose forces also killed civilians as well as police officers. A National Disaster Coordinating Council July 14 report indicated that 112 civilians were confirmed killed in the Mindanao conflict by either rebel MILF or government forces from August 2008 to July 2. Unconfirmed numbers of AFP soldiers and MILF rebels also were killed in the conflict.

From January to December, according to military sources, 219 members of the AFP were killed in action during encounters with rebel and terrorist groups: 132 by the NPA, 54 by the ASG, and 33 by the MILF. During the same period, AFP operations resulted in 227 insurgents killed: 165 NPA, 10 ASG and 52 MILF. The PNP recorded 27 of its personnel killed from January through December and claimed nine ASG and 14 NPA insurgents were killed in PNP operations around the country. The AFP also recorded 127 bombings during the year.

NGOs alleged that government security forces abducted, tortured, or killed civilians during military operations against the MILF. NGOs also reported that indiscriminate shelling of villages by security forces led to civilian deaths. There were reports that both MILF and government forces set fire to villages. Clan feuds contributed to violence between various armed factions in Mindanao.

The government suspected groups with ties to the ASG or Jemaah Islamiyah were responsible for a series of bombings in Cotabato City, Jolo City, and Iligan City that killed civilians. No group claimed responsibility for the attacks.

The government attributed fatal bombings and a beheading in Basilan to the ASG. On August 12, 23 soldiers and at least 21 ASG members were killed when the military launched a major offensive on a suspected ASG training camp on Basilan. The government blamed nearby MILF forces for firing on government troops during the counterterrorist operation.

Communist insurgents, mainly from the NPA, used roadside bombs, ambushes, and other means to kill political figures, military and police officers, and civilians, including suspected military and police informers. The NPA and other extortion groups also harassed businesses and government offices, and burned farms, businesses, and private communication facilities to enforce the collection of “revolutionary taxes.”

During the year the NPA admitted responsibility for the May 23 killing of Evelyn Pitao-Dadula and her husband, declaring that Pitao-Dadula was killed for “political crimes against the people” by decision of the “People’s Court of the Communist Party.” The NPA “apologized” for killing her husband.

Abductions.—There were numerous kidnappings recorded in Mindanao and the Sulu Archipelago by various armed criminal and terrorist groups, including the ASG. Victims often were released in exchange for payments or rescued by authorities, while others were killed by their captors (see section 1.a.).

On January 15, members of the ASG kidnapped ICRC workers Andreas Notter, Eugenio Vagni, and Mary Jean Lacaba in Jolo, Sulu. Threatening to behead the hostages, the ASG repeatedly demanded ransom and a military withdrawal from the area. Lacaba was released April 2, and Notter escaped on April 18. On July 12, government intermediaries successfully negotiated for Vagni’s release. At least nine other individuals, including six public school teachers, one foreign NGO worker, and two local microfinance employees were reportedly abducted by ASG members in Basilan and the Zamboanga Peninsula from January to March. These victims were either rescued or released during the year.

Unidentified persons kidnapped Irish priest Michael Sinnott on October 11 in Zamboanga del Sur Province; he was released a month later.

On May 15, MILF rebels took over villages in coastal Sultan Kudarat and Maguindanao and used 20 residents as human shields to escape pursuing government forces. The civilian hostages were later released unharmed.

Child Soldiers.—During the year the NPA and the ASG targeted children for recruitment as combatants and noncombatants. The NPA claimed that it assigned persons 15 to 18 years of age to self-defense and noncombatant duties; however, there were reports that the NPA continued to use minors in combat. During the year the AFP reportedly rescued 15 child soldiers, 12 of whom were allegedly recruited by the NPA.

The ASG recruited teenagers to fight and participate in its activities. The AFP stated that some Islamic schools in Mindanao served as fronts to indoctrinate children.

A 2007 study commissioned by the UN Children’s Fund (UNICEF) found that children as young as 10 years were used as soldiers or recruited by the MILF. Most of the children were volunteers often with the support of their families, serving in noncombat roles. During the December 2008 visit of the special representative of the UN secretary general, the MILF agreed to stop the recruitment and use of children in its ranks. On July 31, UNICEF and the MILF signed an action plan to prevent the recruitment and use of child soldiers and to release children from all MILF units.

During the year the Department of Social Welfare and Development (DSWD) assisted seven child soldiers rescued from rebel groups. Government reporting mechanisms for children in armed conflict were inconsistent between agencies and regions, making it difficult to evaluate the scope of the problem.

Other Conflict-Related Abuses.—Clashes between the MILF and AFP continued and caused the number of internally displaced persons (IDPs) to fluctuate. Most IDPs were in the central Mindanao provinces of Lanao del Norte, Cotabato, and Maguindanao (see section 2.d.).

The NPA continued to subject military personnel, police, local politicians, and other persons to its so-called courts for “crimes against the people.” The NPA executed some of these “defendants.” The MILF also maintained its own “people’s courts.”

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of speech and of the press, and the government generally respected these rights in practice.

The government owned several television and radio stations; however, most print and electronic media were privately owned. The independent media were active and expressed a wide variety of views without restriction, but they were freewheeling and often criticized for lacking rigorous journalistic ethics. They tended to reflect the particular political or economic orientations of owners, publishers, or patrons, some of whom were close associates of present or past high-level officials. Special interests

often used bribes and other inducements to solicit one-sided and erroneous reports and commentaries that supported their positions. Journalists continued to face harassment and threats of violence from individuals critical of their reporting.

Journalists continued to be killed. The Center for Media Freedom and Responsibility reported 34 journalists killed from January through December. Task Force Usig classified five of these cases as work-related killings.

On January 22, two unidentified assailants in Cotabato City shot and killed radio commentator Badroin Abbas, known for hard-hitting stories. The case was under investigation at year's end.

On June 9, a gunman shot and killed Crispin Perez, a local radio station commentator and former vice governor of Mindoro Occidental. On July 2, the National Bureau of Investigation and Perez's widow filed a murder complaint with the Department of Justice (DOJ) against a local police officer, who remained under restrictive custody pending the result of a preliminary investigation.

On June 12, two unidentified men shot and killed local tabloid reporter Antonio Castillo, known for his criticism of local politicians, in Masbate. On July 3, a murder case was filed against one known suspect and another unidentified suspect, both at large.

On June 25, a gunman in Agusan del Sur killed local radio broadcaster Jonathan Petalvero. Murder charges were filed July 31 against a suspect.

On July 27, a gunman shot and killed radio broadcaster Godofredo Linao, Jr. in Barobo town, Surigao del Sur. A murder case was filed July 28 against several suspects who remained at large.

On November 23, an estimated 100 armed men, many of whom have not been publicly identified, killed 57 individuals, including 30 reporters and media workers, in election-related violence in Ampatuan town, Maguindanao (see section 1.a.).

Task Force Usig considered the cases of Petalvero and Abbas as not work related.

Cases of journalist killings for 2008 and 2007 remained ongoing.

On April 22, a local court acquitted the lone suspect in the 2007 killing of Davao-based broadcaster Fernando Lintuan.

On April 29, a regional trial court convicted Joy Antimara of homicide in the 2006 killing of radio commentator Armando Pace and sentenced him to 10 to 17 years in prison.

On May 14, the suspected mastermind in the 2005 killing of local newspaper editor Philip Agustin was arrested in Mabalacat, Pampanga.

On May 16, an important witness to the 2004 killing of Aklan broadcaster Herson Hinolan was arrested for defying a subpoena.

On July 13, the Supreme Court granted a petition to transfer the trial for the 2008 murder of broadcaster Dennis Cuesta from General Santos City to Makati City. One of the accused was a police inspector related to the incumbent mayor of General Santos City.

On May 6, the Department of Interior and Local Government approved the release of 18 million pesos (approximately \$377,830) as cash rewards for information leading to the arrest of persons wanted by authorities for their involvement in media killings.

Human rights NGOs frequently criticized the government for failing to protect journalists. The National Union of Journalists of the Philippines accused the police and the government of failing to investigate adequately these killings and of subjecting journalists to harassment and surveillance. In some situations it was difficult to discern if violence against journalists was carried out in retribution for their profession or if these journalists were the victims of random crime.

Internet Freedom.—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in peaceful expressions of views via the Internet, including by e-mail. Internet access was available widely. According to International Telecommunication Union statistics for 2008 approximately 6.2 percent of the country's inhabitants used the Internet.

Academic Freedom and Cultural Events.—Student groups at some universities accused security forces of harassing student political groups. The government did not otherwise interfere with academic freedom. There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The law provides for freedom of assembly, and the government generally respected this right in practice. Although the law requires that groups obtain a permit to hold a rally, the government at times followed an unwritten policy of allowing rallies to occur without the filing of a request. The police exhibited professionalism and restraint in dealing with demonstrators, with few exceptions. An NGO reported that

protesters were injured by police in February and May during two protests in Metro Manila. Other reports noted that some protesters were injured during an April 21 protest in Naga City.

Freedom of Association.—The law provides for freedom of association, and the government generally respected this right in practice.

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

The government's campaign against terrorist groups led some human rights NGOs to accuse the police and military of acting with bias in their treatment of Muslims.

Intermittent government efforts to integrate Muslims into political and economic society achieved only limited success. Many Muslims claimed that they remained underrepresented in senior civilian and military positions and cited the lack of proportional Muslim representation in national government institutions. Predominantly Muslim provinces in Mindanao lagged far behind the rest of the country in most aspects of socioeconomic development. The percentage of the population under the poverty level in the ARMM was almost twice as high as the national average, with per capita income of 15,760 pesos (approximately \$330) per year.

Societal Abuses and Discrimination.—Historically, the Christian majority has marginalized Muslims. The national culture, with its emphasis on familial, tribal, and regional loyalties, contains informal barriers whereby access to jobs or resources is provided first to those of one's own family or group network. Muslims reported difficulty renting rooms or securing retail-sector jobs if they used their real names or wore distinctive Muslim dress. As a result, some Muslims used Christian pseudonyms and did not wear distinctive dress when applying for housing or jobs.

An estimated 400 to 1,000 mostly foreign nationals of Jewish heritage lived in the country. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Foreign travel was limited only in rare circumstances, such as when a citizen has a pending court case. Government authorities discouraged travel by vulnerable workers to areas in which they faced personal risk.

The government retained its formal ban on travel to Iraq for the purposes of employment, but the Department of Foreign Affairs estimated that 6,000 Filipinos worked there. The travel ban also included Afghanistan, Nigeria, and Lebanon. The Philippine Overseas Employment Administration (POEA) sought to limit departures for work abroad to persons the POEA certified as qualified for the jobs. Millions of citizens worked overseas and remitted money home. From January through June, such remittances accounted for approximately 10 percent of the gross domestic product.

Forced exile is illegal, and the government did not use it.

Internally Displaced Persons (IDPs).—Sustained clashes between the AFP and the MILF during the first half of the year caused the number of IDPs to fluctuate. NGOs alleged that aggressive AFP tactics led to an increased number of IDPs in June. Most IDPs were in the central Mindanao and largely Muslim areas of Lanao del Norte, Cotabato, and Maguindanao. The September 1 humanitarian update produced by the UN Coordination Office estimated 66,028 IDP families or 330,140 IDP individuals in Mindanao as of August 25.

The government permitted humanitarian organizations to access IDP sites. NGOs noted that food aid was sometimes delayed. Security forces did not target IDPs, but military operations were carried out near IDP sites. The government did not restrict the movement of IDPs. At various times the government encouraged IDPs to return home, but they often were reluctant to do so because of the uncertain security situation and lack of food in their villages.

Government agencies, often with support from UN agencies and other international assistance, provided food assistance and other goods, constructed shelters and public infrastructure, repaired schools, constructed sanitation facilities, offered immunization, health, and social services, and provided cash assistance and skills training. Following its July ceasefire agreement with the MILF, the government em-

barked on a program to assist IDPs to return to their villages and regain their livelihoods. UN reports indicated that some IDPs, particularly in Manguindanao and Lanao del Norte provinces, returned to their villages as a result of the improved security situation. Other agencies, including the UN Development Program, Mindanao Emergency Response Network, and Red Cross continued to provide food and essential items such as medicine, blankets, water containers, and mosquito nets.

Protection of Refugees.—The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. However, no comprehensive legislation provides for granting refugee status or asylum. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion. The refugee unit in the DOJ determined which asylum seekers qualify as refugees; such determinations in practice implemented many of the basic provisions of the 1951 convention. The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention or its 1967 protocol. As of August there were no reports of the government extending such protections.

The government cooperated with the UNHCR and other humanitarian organizations in assisting refugees. On August 27, the Department of Foreign Affairs and the UNHCR signed a Memorandum of Agreement on the Emergency Transit of Refugees, permitting the transit of refugees through the Philippines for onward resettlement in another country. The UNHCR recorded 104 refugees in 2008.

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

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

Elections and Political Participation.—In 2007 midterm elections were held for senators, representatives, provincial governors, and local government officials. Voter turnout was high; however, incidents of violence and allegations of fraud marred the generally free and fair conduct of elections.

In general political parties could operate without restriction. In October the Commission on Elections rejected an attempt by a group that plotted an unsuccessful coup in 2003 to register a new political party. In November it rejected a petition by Ang Ladlad, an organization representing lesbian, gay, bisexual, and transgender (LGBT) persons, to be registered as a political party for the 2010 elections on the grounds that it “tolerates immorality, which offends religious beliefs.” The group’s petition for accreditation was previously denied in 2007 on the grounds that it did not have an adequate national presence. In December the commission rejected the group’s appeal of the ruling. The Commission also disqualified Ang Ladlad’s president Danton Remoto from the list of 2010 senatorial candidates, stating that he had inadequate support to conduct a nationwide campaign.

There were no other restrictions in law or practice on participation by women and members of minorities in politics. Many women, including the president, held positions of leadership and authority. There were four women in the 24-seat Senate and 51 women in the 240-seat House of Representatives. There were two women in the 22-member cabinet, six female associate justices on the 15-member Supreme Court, and 17 women among the 80 governors. On August 14, President Arroyo signed into a law the “Magna Carta for Women,” which requires government agencies to hire more women over the next five years.

Along with many other citizens, Muslims and other indigenous groups argued that electing senators from a nationwide list favored established political figures from the Manila area. Election of senators by region would require a constitutional amendment, which many Muslims and members of other groups underrepresented in the national legislature favored. There were no Muslim or indigenous senators and no Muslim or indigenous cabinet members. There were 11 Muslim members in the House of Representatives, mostly elected from Muslim-majority provinces.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials often engaged in corrupt practices with impunity. Both the government and the private sector have established a number of anticorruption bodies, including an ombudsman’s office and an anticorruption court, and public officials were subject to financial disclosure laws. The government convicted 71 officials in 234 corruption cases from January to November. Convictions included the February 14 conviction of a former DOJ prosecutor, the February 18 conviction of a retired AFP major general, the March 12

conviction of a former mayor and former municipal treasurer in Guimaras Province, and the April 2 conviction of a former municipal treasurer in Masbate.

The law provides for the right to information on matters of public concern. However, denial of such information often occurred when the information related to an anomaly or irregularity in government transactions. Much government information was not available electronically and was difficult to retrieve.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. The CHR and, to some extent, the PNP responded to and investigated cases of human rights abuses, as requested by NGOs. Human rights activists continued to encounter occasional harassment, mainly from security forces or local officials from the area in which incidents under investigation took place. The Presidential Human Rights Committee consulted with NGOs but did not include representation from the NGO community, which some groups claimed reduced their ability to participate in the government's human rights initiatives.

The government cooperated with international organizations. In September it supported a high-level mission from the International Labor Organization (ILO) to investigate labor rights complaints.

The CHR is mandated to protect and promote human rights. It is empowered to investigate all human rights violations and to monitor the government's compliance with international human rights treaty obligations. The CHR has authority to make recommendations regarding military and higher-level police promotions. The commission has a chairperson and four members. CHR monitoring and investigating continued to be hamstrung by insufficient resources. Approximately three-quarters of the country's 42,000 barangays (villages) had human rights action centers, which coordinated with CHR regional offices; however, the CHR's regional and subregional offices remained understaffed and underfunded. The CHR nationwide budget increased 19 percent over the prior year to 255.28 million pesos (approximately \$5.36 million). The CHR conducted numerous investigations during the year, including into alleged vigilante killings in Davao and other cities. The CHR faced some difficulty accessing military sites to conduct its searches for missing or detained persons.

The House of Representatives and Senate maintained active human rights committees.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination against women, children, and minorities; however, vague regulations and budgetary constraints hindered implementation of these protections.

Women.—Rape, including spousal rape, is illegal, but enforcement was ineffective. Rape continued to be a problem, with most cases unreported. At year's end the PNP reported 4,166 rape cases. The Bureau of Correction's prisons and penal farms held 246 prisoners convicted of rape, 132 of whom were serving life sentences. There were reports of rape and sexual abuse of women in police or protective custody—often women from marginalized groups, such as suspected prostitutes, drug users, and lower-income individuals arrested for minor crimes. There were alleged instances of rape perpetrated by officials of the PNP and anecdotal reports of an increase in rape and sexual abuse charges filed against officers.

Violence against women remained a serious problem. The law criminalizes physical, sexual, and psychological harm or abuse to women and their children committed by their spouses or partners. By year's end the PNP reported 5,285 cases of wife battering and physical injuries. This number likely underreported significantly the level of violence against women.

A local women's support group noted that, in smaller localities, perpetrators of abuse sometimes used personal relationships with local authorities to avoid prosecution. On other occasions women who sought to file complaints through the police were told to pay special fees before their complaints could be registered.

The PNP and the DSWD both maintained help desks to assist victims of violence against women and to encourage the reporting of crimes. With the assistance of NGOs, officers received gender sensitivity training to deal with victims of sexual crimes and domestic violence. Approximately 9 percent of PNP officers were women. The PNP has a Women and Children's Unit to deal with these matters.

Prostitution is illegal but was a widespread problem. Many women suffered exposure to violence through their recruitment, often through deception, into prostitu-

tion. Penalties for prostitution are light, but persons detained for prostitution were sometimes subjected to administrative indignities and extortion. Prostitutes were more likely to face charges, typically vagrancy, than their clients, who generally were not charged unless found to be committing sexual acts with a minor. The DSWD continued to provide temporary shelter and counseling to women engaged in both voluntary and involuntary prostitution. By year's end the DSWD provided temporary shelter and counseling to 66 women who were victims of involuntary prostitution. Some local officials discouraged the prosecution of those who exploited persons through prostitution. There were no convictions under the provision of the law criminalizing the act of engaging the services of a prostitute.

Sex tourism, with clients coming from domestic sources, the United States, Europe, Australia, and other East Asian countries, and trafficking in persons both domestically and internationally for sexual exploitation and forced labor remained serious problems.

The law prohibits sexual harassment. However, sexual harassment in the workplace was widespread and underreported due to victims' fear of losing their jobs. Female employees in special economic zones were particularly at risk; most were economic migrants who had no independent workers' organization to assist with filing complaints. Women in the retail industry worked on three- to five-month contracts and were often reluctant to report sexual harassment for fear their contracts would not be renewed. Some labor unions believed that firms took punitive action against female employees who became pregnant.

The constitution upholds the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children, and to have the information and means to do so free from discrimination, coercion, and violence. However, the provision of health care services is the responsibility of local governments, and although men and women generally were treated equally, restrictions on the provision of artificial birth-control supplies by government-run health facilities in some localities reduced the availability of family-planning resources for impoverished women. For example, in 2000 the then mayor of Manila issued an executive order that promoted natural family planning and, according to its critics, in effect prohibited provision of "artificial" family planning services in city hospitals and health centers. At year's end the executive order remained in effect. However, many individuals had access to some forms of contraception, although some objected to using them on religious grounds. In urban areas social hygiene clinics served everyone who sought consultation and treatment. Women and men were equally diagnosed and treated for sexually transmitted infections. The Department of Health trained rural health physicians in diagnosis and treatment, but local health offices faced resource constraints. For maternal health services, 70 percent of pregnant women had at least four antenatal care visits, and 40 percent of births were facility-based or had skilled birth attendants.

The law does not provide for divorce, although courts generally recognize the legality of divorces obtained in other countries if one of the parties is a foreign national. The government recognizes religious annulment, but the process can be costly, which precludes annulment as an option for many women. Many lower-income couples simply separated informally without severing their marital ties. The family code provides that in child-custody cases resulting from annulment, illegitimacy, or divorce in another country, children under the age of seven are placed in the care of the mother unless there is a court order to the contrary. Children over the age of seven normally also remained with the mother, although the father could dispute custody through the courts.

In law, but not always in practice, women have most of the rights and protections accorded to men. Although they faced workplace discrimination, women continued to occupy senior positions in the workforce. In an April labor force survey, 57 percent of government officials, corporate executives, managers, and supervisors were women. The survey also revealed that of the 2.83 million unemployed persons, 38.5 percent were women and 61.5 percent were men.

The National Commission on the Role of Filipino Women, renamed the Philippine Commission on Women, composed of 10 government officials and 11 NGO leaders appointed by the president, acted as an oversight body whose goal is to press for effective implementation of programs benefiting women.

Children.—Citizenship is derived by birth within the country's territory or from one's parents. The government continued to promote birth registration. Credible organizations estimated there were more than two million unregistered children in the country, primarily among Muslim and indigenous groups.

The government devoted considerable resources to the education, welfare, and development of children. The Department of Education's (DepEd) 12 percent share of

the national budget was the largest of any cabinet department. Nevertheless, children faced serious problems.

Elementary and secondary education is free and compulsory through age 11, but the quality of education remained poor. During the year according to DepEd figures, the estimated annual per pupil expenditure for basic education was 7,789 pesos (approximately \$163). The public school enrollment rate was 76 percent. According to the 2007 UNICEF Mid-Term Review, boys were more likely than girls to drop out of school. Children could be deprived of education if they lacked required documents, such as birth certificates.

Child abuse remained a problem. During the year DSWD offices served 6,022 victims of child abuse, of whom 67 percent were girls. Approximately 46 percent of the girls were victims of sexual abuse, while 2 percent were victims of sexual exploitation. Some children also were victims of police abuse while in detention for committing minor crimes. Several cities ran crisis centers for abused women and children. Foreign pedophiles exploited children, and the government continued to prosecute accused pedophiles vigorously.

Child prostitution continued to be a serious problem. Since the passage of a law against child labor in 2003, the Department of Labor and Employment (DOLE) ordered the closure of 15 establishments for allegedly prostituting minors. Trials in these cases were ongoing. During the year DOLE issued new regulations that facilitate the immediate closure of establishments suspected of using children for commercial sex acts, with court hearings to determine the validity of the government's complaint to be held at a later time.

The minimum age for consensual sex is set at 12 years of age. The statutory rape law criminalizes sex with minors under the age of 12 and sex with a child under age 18 involving force, threat, or intimidation. Reclusion perpetua, a 40-year sentence that has no option for pardon or parole until 30 years have been served and carries a lifetime bar to holding political office, is the maximum penalty for rape. On November 17, President Arroyo signed the Anti-Child Pornography Act, which carries penalties ranging from one month to life in prison and fines from 50,000 to five million pesos (\$1,049 to \$104,953), depending on the gravity of the offense. One NGO reported that pornographers forced some children to engage in pornographic activity. In March a Cebu woman was sentenced to life imprisonment and fined three million pesos (\$62,972) for child pornography involving five minors.

The NPA and ASG continued to recruit minors both as combatants and non-combatants (see section 1.g.).

UNICEF estimated that there were approximately 250,000 street children. Many street children appeared to be abandoned and engaged in scavenging or begging. At year's end the DSWD had provided services to 40,861 street children nationwide.

A variety of national executive orders and laws provide for the welfare and protection of children. Police stations have child and youth-relations officers to ensure that child suspects are treated appropriately. However, procedural safeguards were often ignored in practice. According to the BJMP, 316 minors were held on "preventive detention" while their trials were underway. Many child suspects were detained for extended periods without access to social workers and lawyers and were not segregated from adult criminals. NGOs believed that children held in integrated conditions with adults were highly vulnerable to sexual abuse, recruitment into gangs, forced labor, torture, and other ill treatment. There were also reports that many children detained in jails appeared to have been arrested without warrants.

NGOs alleged that vigilantes with ties to government authorities were responsible for killing street children in Davao and other major cities (see section 1.a.). Children were affected by displacement in central Mindanao and generally had access to government services (see section 2.d.).

During the year government agencies and NGOs transferred 399 minor prisoners to DSWD rehabilitation centers and continued to work to secure the release of minors wrongfully imprisoned and of those below 15 years of age. The DSWD ran 11 regional youth rehabilitation centers for juvenile offenders. There were three detention centers for children in Manila.

Trafficking in Persons.—Trafficking in persons is prohibited under the law, which defines several activities related to trafficking in persons as illegal and imposes stiff penalties—up to life imprisonment—for convicted offenders. Nonetheless, trafficking remained a serious problem. The country was a source, transit point, and destination for men, women, and children trafficked for the purposes of sexual exploitation and forced labor. A significant number of men and women who migrated abroad for work were subjected to conditions of involuntary servitude in the Middle East, North America, and other parts of Asia. Women were trafficked abroad for commercial sexual exploitation, primarily to Japan, Malaysia, Singapore, Hong Kong, South Korea, and countries in the Middle East and Western Europe. Women and children

were also trafficked within the country, primarily from rural areas to urban areas for forced labor as domestic workers and factory workers and for sexual exploitation. A smaller number of women were occasionally trafficked from China, South Korea, Japan, and Russia to the country for sexual exploitation. Child sex tourism continued to be a serious problem, with sex tourists coming from Northeast Asia, Europe, and North America to engage in sexual activity with minors.

Both adults and children were trafficked domestically from poor, rural areas in the southern and central parts of the country to major urban centers, especially Metro Manila and Cebu, but also increasingly to cities in Mindanao. A significant percentage of the victims of internal trafficking came from Mindanao who were fleeing the poverty and violence in their home areas. Approximately 75 percent of the trafficking victims provided with temporary shelter and counseling by the NGO Visayan Forum Foundation were from Mindanao. The Visayan region was also a source of trafficking victims. Women and girls were far more at risk of becoming victims of trafficking than men and boys.

Traffickers often targeted persons seeking overseas employment. An estimated four million Filipinos served as temporary overseas workers, approximately 4 percent of the population and 10 percent of the workforce. Most trafficking victims were females ages 13 to 30 from poor farming families. The traffickers generally were private employment recruiters and their partners in organized crime. Many recruiters targeted persons from their own hometowns, promising respectable and lucrative jobs.

Although the government pursued trafficking cases under the antitrafficking law as well as other related laws, its efforts were hampered by slowness of the courts, a high vacancy rate among judges, resource constraints within law enforcement agencies, endemic corruption, and general inefficiency of the judicial system. NGOs reported that an impediment to successful trafficking prosecutions is the lack of understanding of trafficking among judges, prosecutors, and especially law enforcement officers. On September 29, in a case filed and prosecuted by an NGO, a regional trial court in Manila sentenced two human traffickers—including a police officer—to life in prison and fined them two million pesos (approximately \$41,980) for trafficking minors in 2005. The convicted police officer was the country's first public official convicted for human trafficking. On October 29, a trafficker was convicted and sentenced to over 30 years' imprisonment for three counts of sexual abuse and violation of the antitrafficking law for recruiting minors for commercial sex. On November 17, a trafficker pled guilty to acts that promote trafficking, a crime under the antitrafficking law, and was sentenced to 15 years' imprisonment and fined one million pesos (approximately \$20,990). On November 23, three traffickers were convicted and sentenced to life imprisonment. The court fined each of them two million pesos (approximately \$41,980) for recruiting a minor in 2006 under a pretext of offering a job overseas. On December 22, a trafficker was convicted and sentenced to eight to 10 years' imprisonment in a 2006 case involving illegal recruitment of a minor for employment in Manila as an entertainer. The government did not convict any offenders for labor trafficking.

The DOJ assigned responsibility to 20 prosecutors who, in addition to their regular workloads, also handled the preliminary investigation and prosecution of trafficking cases at the national level. There were 95 prosecutors at the regional, provincial, and municipal levels with similar responsibilities for trafficking. The principal investigative agencies were the National Bureau of Investigation, the Bureau of Immigration, the Philippine Center for Transnational Crimes, and the PNP's Criminal Investigation and Detection Group, with the participation of other members of the Interagency Council Against Trafficking. The government cooperated with international investigations of trafficking. The ombudsman created a task force for trafficking-related corruption cases. Corruption among law enforcement agents remained a particular obstacle to improved antitrafficking performance. It was widely believed that some government officials were involved in, or at least permitted, trafficking operations within the country.

The PNP investigated 310 cases of trafficking during the year. By year's end 36 new cases of trafficking were filed for prosecution, of which 15 were pending trial.

There was anecdotal evidence that some lower-level officials such as customs officers, border guards, immigration officials, local police, or others received bribes from traffickers or otherwise facilitated trafficking. The government continued to provide training on the antitrafficking law and to send local officials to NGO-conducted antitrafficking training programs. With the government's own resources severely limited, it relied on partnerships with foreign government agencies, other foreign donors, and internationally funded NGOs for assistance with training and public awareness campaigns. The government continued to improve the standard operating procedures for trafficking task forces at international ports of entry. The Bureau of

Immigration continued efforts to detect trafficking at exit points and deter traffickers. To address labor trafficking, the Bureau of Immigration at the Manila and Clark international airports in the first 10 months of the year, offloaded 7,880 passengers who were not properly documented and believed to be at risk for illegal recruitment and trafficking, a nine-fold increase from full-year 2008 data. It also introduced a warning message against human trafficking, abuse and exploitation of women and children, and drug trafficking in airport immigration arrival/departure forms used by thousands of international passengers every day.

The government increased efforts to protect victims of trafficking, although it continued to rely on NGOs and international organizations to provide services to victims. Victims who were identified were not penalized for crimes committed as a direct result of being trafficked. The government, in conjunction with NGO partners, assisted victims by providing temporary residency status and relief from deportation; shelter; and access to legal, medical, and psychological services. By year's end the DSWD provided temporary shelter and social services to 207 women and 221 juvenile trafficking victims. Additional protective services included hotlines for reporting cases and the operation of 24-hour halfway houses in 13 regions of the country to assist victims.

The government rarely deported or charged victims of trafficking with crimes; however, police sometimes charged women in prostitution with vagrancy. There were no reliable statistics indicating whether these individuals were trafficking victims.

Victims may file civil suits or seek legal action against traffickers but rarely did so. Most victims who chose to do so filed charges of illegal recruitment. The government encouraged victims to assist in the investigation and prosecution of trafficking and related crimes, but the financial and emotional costs of prolonged and delayed court proceedings, which may take place in other provinces, often deterred victims from doing so. In labor trafficking cases, particularly involving overseas foreign workers, lengthy and costly trial procedures often encouraged victims to resolve their cases through mediation as opposed to criminal trials. The NGO International Justice Mission (IJM), employing private investigators and lawyers, coordinated with the government in an effort to increase the number of prosecutions on behalf of victims of trafficking and commercial sexual exploitation. The IJM prosecuted cases in close coordination with DOJ prosecutors; it initiated 51 cases, 23 of which were pending at year's end.

Numerous government agencies and officials, as well as NGOs and international organizations, continued to support public information campaigns against trafficking.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The constitution prohibits discrimination against persons with disabilities in employment, education, access to health care, and other social services. The law provides for equal physical access for persons with both physical and mental disabilities to all public buildings and establishments. The National Council for the Welfare of Disabled Persons formulates policies and coordinates the activities of all government agencies for the rehabilitation, self-development, and self-reliance of persons with disabilities and their integration into the mainstream of society. The DOLE's Bureau of Local Employment maintained registers of persons with disabilities indicating their skills and abilities. The bureau monitored private and public places of employment for violations of labor standards regarding persons with disabilities and also promoted the establishment of cooperatives and self-employment projects for persons with disabilities. One NGO reported that the government had limited means to assist persons with disabilities in finding employment, and such persons had limited recourse when their rights were violated because of the financial barriers to filing a lawsuit.

The DSWD operated two assisted living centers in Metro Manila, and five community-based vocational centers for persons with disabilities nationwide. Assisted-living centers were understaffed and underfunded. During the year the DSWD provided services to 1,533 persons with disabilities.

Advocates for persons with disabilities contended that equal-access laws were ineffective due to weak implementing regulations, insufficient funding, and government programs that were inadequately focused on integration. Many public buildings, particularly older ones, lacked functioning elevators. Many schools had architectural barriers that made attendance difficult for persons with disabilities.

Government efforts to improve access to transportation for persons with disabilities were limited. Two of Manila's three light-rail lines were wheelchair accessible; however, many stops had unrepaired, out-of-service elevators. Buses lacked wheelchair lifts, and one NGO claimed that private transportation providers, such as

taxis, often overcharged persons with disabilities or refused service. A small number of sidewalks had wheelchair ramps, which were often blocked, crumbling, or too steep. The situation was worse in many smaller cities and towns.

The constitution provides for the right of persons with physical disabilities to vote; however, persons with mental disabilities are disqualified from voting. Persons with physical disabilities are allowed to vote with the assistance of a person of their choice. In practice many persons with disabilities did not vote because of the physical barriers described above.

Indigenous People.—Indigenous people lived throughout the country but primarily in the mountainous areas of northern and central Luzon and in Mindanao. They numbered over 14 million persons or 16 percent of the national population, with more than 63 percent of the total in Mindanao. Although no specific laws discriminate against indigenous people, the remoteness of the areas that many inhabit as well as cultural bias prevented their full integration into society. Indigenous children often suffered from lack of health, education, and other basic services. NGOs estimated that up to 70 percent of indigenous youth left or never attended school because of discrimination they experienced. According to a local NGO, only 21 of 1,700 local government units in the country complied with the requirement of the 1987 People's Rights Act for the mandatory representation of indigenous persons in policy-making bodies and local legislative councils. No members of Congress were of indigenous descent.

Indigenous people suffered disproportionately from armed conflict, including displacement from their homes, because they often inhabited mountainous areas favored by guerrillas. Their lands were often the sites of armed encounters, and various parties to the fighting recruited many indigenous people. On August 19, Manobo indigenous communities and a local NGO protested the presence of military forces in Lianga, Surigao del Sur.

A National Commission on Indigenous People, staffed by tribal members, implemented constitutional provisions to protect indigenous people. During the year the commission had a budget of 735.4 million pesos (approximately \$15.4 million). During the year the commission awarded Certificates of Ancestral Land and Ancestral Domain Titles covering over 1.11 million acres of land claimed by indigenous people. It awarded such "ancestral domain lands" on the basis of communal ownership, stopping sale of the lands by tribal leaders. The law requires a process of informed consultation and written consent by the indigenous group to allow mining on tribal lands and assigns indigenous groups the responsibility to preserve their domains from environmentally inappropriate development. Some NGOs expressed concern that the law was not adequately enforced and that the rights of indigenous communities, including the right to prior consent, were not always protected. An indigenous people's NGO alleged that 39 of 64 ongoing mining projects nationwide were on ancestral lands. There were anecdotal reports of indigenous groups, particularly the Mangyans in Mindoro and the Ati tribe in Boracay, being displaced by tourism and development. There were also reports of increased sales of ancestral lands to nontribal members, reportedly brokered by tribe members.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—There was some societal discrimination based on sexual orientation, including in employment and education. There were many active LGTB organizations, and some of them held public marches or other events during the year to promote equality and antidiscrimination legislation. An effort by an LGBT group to register as a political party was denied because it "tolerates immorality, which offends religious beliefs" (see section 3).

Other Societal Violence or Discrimination.—The law prohibits all forms of discrimination against persons with HIV/AIDS and provides basic health and social services for these persons. However, there was some evidence of discrimination against HIV/AIDS patients in the provision of health care, housing, and insurance services. The rate of HIV/AIDS remained low, although the rate of infection was believed to be underreported. Overseas workers were required to participate in an HIV/AIDS class as part of a predeparture orientation seminar.

Section 7. Worker Rights

a. The Right of Association.—The law provides for the right of workers, including most public employees, with the exception of the military and the police, to form and join trade unions. Trade unions are independent of the government. Unions have the right to form or join federations or other labor groups.

At year's end the Bureau of Labor Relations reported 131 registered labor federations and 15,848 private sector unions. The 1.98 million union members included approximately 5.2 percent of the total workforce of 38.2 million. The number of

firms using contractual labor, primarily large employers, continued to grow. There were 1,676 public sector unions, with a total membership of 356,279 or approximately 18 percent of the total employed persons in the public sector.

In 2007 a new labor law lowered the requirements for union registration, and in November 2008 the DOLE issued implementing rules and regulations for this law.

The International Trade Union Confederation and other labor rights advocacy groups expressed concern over killings and harassment of labor leaders and supporters and urged the government to increase efforts in investigating these attacks. Through December the Center for Trade Union and Human Rights (CTUHR) documented five killings of labor leaders, including the killing of Sabina Ariola, who was shot by an unidentified assailant en route to a rally on March 23. At year's end an investigation was pending. In addition, the CTUHR documented 26 cases of threats, harassment, and intimidation affecting 605 workers and labor advocates, seven cases of physical assault, and four cases of violent dispersal of protests.

Eight cases alleging violations of labor rights were pending with the ILO Committee on Freedom of Association (CFA). In September the government cooperated with a high-level ILO mission to investigate labor rights violations in the country.

Subject to procedural restrictions, strikes in the private sector are legal; however, unions are required to provide strike notice, respect mandatory cooling-off periods, and obtain majority member approval before calling a strike. By law the reason for striking must be relevant to the labor contract or the law, and all means of reconciliation must have been exhausted. The DOLE secretary may intervene in some labor disputes by assuming jurisdiction and mandating a settlement if the secretary decides that the company affected by the strike is vital to the national interest. Through December DOLE assumed jurisdiction in 12 labor dispute cases. Labor rights advocates criticized the government for intervening in labor disputes in sectors that were not vital to the national economy. On August 30, the court of appeals upheld the validity of Nestle Philippines' dismissal of more than 500 employees after their January 2002 strike following a deadlock in collective bargaining agreement negotiations. The court considered the workers' decision to ignore the DOLE's return-to-work order as valid grounds for loss of employment.

Government workers are prohibited from joining strikes under threat of automatic dismissal. Government workers may file complaints with the Civil Service Commission, which handles administrative cases and arbitrates disputes between workers and their employers.

The DOLE reported four strikes involving 1,510 workers from January to December.

Although the labor code provides that union officers who knowingly participate in an illegal strike may be dismissed and, if convicted, imprisoned for up to three years, there has never been a conviction under this provision.

b. The Right to Organize and Bargain Collectively.—The law provides for the right to organize and bargain collectively. The labor code provides for this right for employees both in the private sector and in corporations owned or controlled by the government. A similar right is afforded to most government workers. Collective bargaining was practiced; however, it was subject to hindrance, and union leaders may be subject to reprisal. International labor organizations noted that collective bargaining in the public sector was limited. At year's end the total number of private- and public-sector workers covered by collective bargaining agreements was recorded at 225,167 (approximately 11.3 percent of union members and less than 1 percent of the total workforce).

Allegations of intimidation and discrimination in connection with union activities are grounds for review before the quasi-judicial National Labor Relations Commission (NLRC) as possible unfair labor practices. Before disputes reach the NLRC, the DOLE provides the services of a mediation board, which settles most of the unfair labor practice disputes raised as grounds for strikes before the strikes may be declared. The DOLE, through the mediation board, also worked to improve the functioning of labor-management councils in companies that already had unions.

Management dismissal or threatened dismissal of union members was common. On January 6, approximately 300 workers picketed a Cebu-based furniture company that had dismissed several workers and filed a request with DOLE for a temporary shutdown in November 2008. A union officer claimed that the company used the global financial crisis as reason to dismiss several union members. The union filed for a notice of strike on January 22, but the case was settled amicably on February 16. The laid-off workers were given separation benefits.

In March 2008 the CFA responded to a 2007 complaint by several union members at the Technical Education Services and Development Authority (TESDA) regarding the members' work-transfer orders and their subsequent dismissal from TESDA. The committee requested the government to reinstate the workers and provide com-

pensation. Conflicting decisions in 2007 from the Civil Service Commission called for the reinstatement of the workers but also approved TESDA's decision to dismiss them. In December 2008 a court of appeals ruled in favor of TESDA management. In January a public-sector union representing workers at TESDA filed a motion for reconsideration with the Supreme Court. In April the Supreme Court denied the motion. In July the Civil Service Commission ruled the dismissed workers should be reinstated. At year's end TESDA's appeal of that decision was pending.

Labor groups alleged that companies in Special Economic Zones (SEZs) used frivolous lawsuits as a means of harassing union leaders. Labor groups reported that firms used bankruptcy as a reason for closing and dismissing workers.

Labor law applies uniformly throughout the country, including in SEZs; however, local political leaders and officials who governed the SEZs attempted to frustrate union organizing efforts by maintaining union-free or strike-free policies. A conflict over interpretation of the SEZ law's provisions for labor inspection further obstructed the enforcement of workers' rights to organize. The DOLE can conduct inspections of SEZs and establishments located there, although local zone directors claimed authority to conduct their own inspections as part of the zones' privileges intended by congress. Hiring often was controlled tightly through SEZ labor centers. Union successes in organizing in the SEZs were few and marginal in part due to organizers' restricted access to the closely guarded zones and the propensity among zone establishments to adopt fixed-term, casual, temporary, or seasonal employment contracts.

Labor unions claimed that government security forces were stationed near industrial areas or SEZs to intimidate workers attempting to organize.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor; however, there were reports that such practices occurred, particularly affecting children, mainly in prostitution, drug trafficking, domestic service, and other areas of the informal sector (see sections 6 and 7.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits the employment of children under the age of 15, except under the direct and sole responsibility of parents or guardians or in cases in which employment in cinema, theater, radio, or television is essential to the integrity of the production. The law allows employment of those between the ages of 15 to 18 for such hours and periods of the day as are determined by the DOLE secretary but forbids the employment of persons less than 18 years of age in hazardous or dangerous work. However, child labor remained a common problem, and a significant number of children were employed in the informal sector of the urban economy as domestic workers or as unpaid family workers in rural agricultural areas—some as bonded laborers. The government estimated that there were approximately four million working children, an estimated half of whom were exposed to hazardous working environments, in industries such as quarrying, mining, deep-sea fishing, pyrotechnic production, and agriculture, especially sugar cane plantations.

Most child labor occurred in the informal economy, often in family settings. The government, in coordination with a number of domestic NGOs and international organizations, implemented programs to develop safer options for children, return them to school, and offer families viable economic alternatives to child labor. Although the government made attempts to devote more resources to child labor programs during the year, resources remained inadequate.

The government and NGOs implemented programs to prevent the engagement of children in exploitive child labor; they educated communities on child labor and provided counseling and other activities for children. The DOLE and the DepEd worked with NGOs to assist children to return to school, and UNICEF and the ILO continued to work with the government on programs for the reduction of child labor. The government also imposed fines and instituted criminal prosecutions for child labor violations in the formal sector, such as in manufacturing. The trial continued for a Metro Manila garment factory that employed 10 child laborers. In October the DOLE issued a circular that provides that businesses found guilty of violating the child labor law more than three times would face closure. The DOLE continued its efforts to remove child workers from hazardous situations. From January to March, the DOLE conducted six rescue operations, removing 65 minors.

e. Acceptable Conditions of Work.—The national minimum wage did not provide a decent standard of living for a worker and family. Tripartite regional wage boards responsible for setting minimum wages did not approve an increase during the year. Under a new law, minimum wage earners are exempt from paying income tax. The highest minimum wage rates were in the National Capital Region, where the minimum daily wage for nonagricultural workers was 382 pesos (\$8.02). The lowest minimum wage rates were in the Southern Tagalog Region, where daily agricultural

wages were 187 pesos (\$3.92). The regional wage board orders covered all private sector workers except domestic servants and others employed in the service of another person; these persons were frequently paid less than the minimum wage. Boards exempted some newly established companies and other employers from the rules because of factors such as business size, industry sector, export intensity, financial distress, and level of capitalization. These exemptions excluded substantial numbers of workers from coverage under the law. The regional wage boards of the National Wage and Productivity Commission did not release any wage exemption decisions during the first half of the year. Unions filed complaints about the minimum wage exemption policies.

Violation of minimum wage standards and the use of contract employees to avoid the payment of required benefits were common, including in the government-designated SEZs, where tax benefits were used to encourage the growth of export industries. According to a January to June Bureau of Working Conditions report, 497 of 1,208 inspected firms were found to have violated labor or occupational safety and health standards. Many firms hired employees for less than the minimum apprentice rates, even if there was no approved training in their production-line work. The DOLE inspects establishments that employ 10 to 199 workers to determine compliance with national labor laws. Establishments employing 200 or more persons and unionized establishments with collective bargaining agreements are subject to self-assessment of compliance with labor standards. The DOLE provided training and advisory services to enterprises with less than 10 workers to help them comply with national labor laws and core labor standards. From January to June, 46 percent (554 out of 1,208) of commercial establishments inspected by the DOLE were not in compliance with the prevailing minimum wage. The DOLE acknowledged that the shortage of inspectors made it difficult to enforce the law. In addition to fines, the government also used administrative procedures and moral suasion to encourage employers to rectify violations voluntarily. Complaints about nonpayment of social security contributions, bonuses, and overtime were particularly common with regard to companies in SEZs.

By law the standard legal workweek is 48 hours for most categories of industrial workers and 40 hours for government workers, with an eight-hour per day limit. The government mandates an overtime rate of 125 percent of the hourly rate on ordinary days and 130 percent on rest days and holidays. The law mandates one day of rest each week. However, there is no legal limit on the number of overtime hours that an employer may require. The DOLE conducted only sporadic inspections to enforce limits on workweek hours. From January to June, DOLE labor inspectors made 1,208 inspections to check on companies' compliance with general labor and working standards. Labor groups maintained that forced overtime was common.

The law provides for a comprehensive set of occupational safety and health standards. The DOLE has responsibility for policy formulation and review of these standards, but with too few inspectors nationwide, local authorities often must carry out enforcement. The DOLE continued a campaign to promote safer work environments in small enterprises. Statistics on actual work-related accidents and illnesses were incomplete, as incidents (especially in agriculture) were underreported. Through June the DOLE conducted inspections of 1,208 establishments on occupational safety standards compliance, 912 or 75 percent of which were able to comply upon inspection. Workers do not have a legally protected right to remove themselves from dangerous work situations without risking loss of employment.

The government and several NGOs worked to protect the rights of the country's overseas citizens, most of whom were temporary or contract workers. The government placed financial sanctions on and criminal charges against domestic recruiting agencies found guilty of unfair labor practices. Although the POEA registered and supervised domestic recruiters' practices successfully, the authorities sometimes lacked sufficient resources to ensure workers' protection overseas. It sought cooperation from receiving countries and proposed migrant worker rights conventions in international forums. The government also provided assistance through its diplomatic missions in countries with substantial numbers of migrant workers.

The labor laws protect foreign workers in the country. Foreign workers must obtain work permits and may not engage in certain occupations. Typically their work conditions were better than those faced by citizens. They are not allowed to join or form unions.

SAMOA

Samoa is a constitutional parliamentary democracy that incorporates traditional practices into its governmental system. Its population was approximately 188,000. Executive authority is vested in Head of State Tui Atua Tupua Tamasese Efi, elected by parliament in 2007. The unicameral parliament, elected by universal suffrage, is composed primarily of the heads of extended families (matai). The most recent parliamentary elections, held in 2006, were marred by charges of bribery. All 10 by-elections subsequently ordered by the Supreme Court were concluded by 2007 and considered generally free and fair. The ruling Human Rights Protection Party (HRPP) maintained its majority and continued to be the only officially recognized party in parliament. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens. Some problems remained, however, including poor prison conditions, local limitations on religious freedom, domestic violence, sexual abuse of children, and discrimination against women and non-matai.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution prohibits such practices, and the government generally observed these prohibitions in practice. However, there were some allegations of police abuses.

In September a local nongovernmental organization (NGO) reported two separate complaints of police abuse of persons in police custody. The first complainant alleged that five police officers assaulted him, resulting in the loss of several teeth, after he was arrested for throwing stones while intoxicated and damaging nearby homes and road signs. The second individual alleged police beat him after stopping his vehicle at a roadblock, resulting in a fractured eye socket and broken arm. According to the NGO, the complainant's car was detained because the passengers were laughing loudly. When the complainant tried to explain that they were not laughing at the police, officers dragged him from the vehicle and beat him. The Ministry of Police's Professional Standards Unit was investigating both cases at year's end.

Also in September, an associate government minister was accused of inciting to kill a member of his village. He allegedly shot at the victim when the victim refused to leave after village authorities ordered him banished from the village. In December the minister pled not guilty; the case was expected to resume in 2010.

In March a senior police officer was charged with five counts of indecent assault and one count of sodomy for allegedly forcing a juvenile at the Oloamanu Juvenile Center into an unwanted sexual relationship in 2007. In June the officer pled not guilty to all charges. The trial was pending at year's end.

Prison and Detention Center Conditions.—Prison conditions remained poor, but there were some facility improvements during the year.

Some prison facilities were nearly a century old. The Tafaigata men's prison had 24 cells of various sizes, including eight large concrete cells approximately 30 feet by 30 feet in size that each held 20 to 25 inmates.

Only basic provisions were made with respect to food, water, and sanitation. Cell lighting and ventilation remained poor; lights were turned on only from dusk until nine in the evening. Some but not all individual cells had toilet facilities. The separate Tafaigata women's prison had five cells (approximately 15 feet by nine feet) that held four to six inmates per cell. Bathroom facilities were in separate rooms. Physical conditions, including ventilation and sanitation, generally were better in the women's prison than in the men's prison.

Some juveniles were held with adults. Construction work at the Oloamanu Juvenile Center was completed by year's end, and the facility held a limited number of juveniles. Physical conditions at the juvenile center were generally better than those for adults, but there were unconfirmed reports of problems with food, clothing, and the water supply.

Although some renovation work was undertaken during the year, no new prison cells were constructed to accommodate an increased prison population. Although exact numbers were not available, at year's end both the men's and women's prisons had more inmates than they were originally designed to hold. At year's end there

were approximately 300 inmates at the Tafaigata men's and women's prisons, the Oloamanu Juvenile Center, and Vaiaata Prison combined, most of whom were incarcerated in the Tafaigata facilities.

In May a controversial prisoner weekend parole program was suspended following an incident in March in which a prisoner on weekend parole hijacked, beat, and stole money from a taxi driver. By year's end the program had resumed, but only once a month and excluding those sentenced for theft, burglary, and other serious crimes.

In May, 42 prisoners armed with machetes escaped from the Tafaigata prison, hijacked a bus, and tried to drive it to the government headquarters building to express their complaints about prison conditions, including poor living conditions and food quality. The prisoners were captured an hour later when police shot at the bus's tires. In August some of the prisoners pled guilty to charges that included escaping from police custody and possession of a deadly weapon. The trial for those who pled not guilty continued at year's end.

The government permitted monitoring visits by independent human rights observers; however, there were no known requests during the year. The government permitted family members and church representatives to visit prisons every two weeks.

During the year the government made some improvements to the men's prison facilities. These included erection of makeshift bathroom partitions approximately six to nine feet high for greater privacy, installation of vinyl flooring over the concrete floors, and painting of exterior and interior walls. In addition, the prison chapel and community hall were renovated using proceeds from sales of music recorded by the prison choir.

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

Role of the Police and Security Apparatus.—The country has a small national police force. Enforcement of rules and security within individual villages is vested in the fono (Council of Matai).

A commissioner for police and prisons administration is appointed to a three-year term and reports to the minister of police. Corruption and impunity were not significant problems among the police, although there were credible reports of minor instances of bribery, such as bribes to avoid traffic citations. A lack of resources limited police effectiveness.

In late January a special commission of inquiry recommended to the attorney general that criminal charges be brought against the then police commissioner and another senior police officer for smuggling three firearms on board the police patrol boat in 2008. However, when the report was submitted and the officers were called before the cabinet, no criminal charges were brought. In February the police commissioner was censured and the second officer was demoted. The commissioner's contract ended during the year, and he was not reappointed.

In March the trial resumed in the 2007 case of an assistant police commissioner accused of indecent assault against two female police officers. The trial, which was delayed due to court backlogs and maternity leave of one of the female officers in the case, continued at year's end.

Arrest Procedures and Treatment While in Detention.—The Supreme Court issues arrest warrants based on sufficient evidence. The law provides for the right to a prompt judicial determination regarding the legality of detention, and the authorities generally respected this right in practice. Detainees were informed within 24 hours of the charges against them, or they were released. There was a functioning system of bail. Detainees were allowed prompt access to family members and a lawyer of their choice. If the detainee was indigent, the government provided a lawyer.

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice.

The judiciary consists of the District Court, the Lands and Titles Court, the Supreme Court, and the Court of Appeal. The Court of Appeal, the highest court, has appellate jurisdiction only and can review the rulings of any other court. It is composed of a panel of retired New Zealand judges and sits once a year for several weeks.

Due to staff shortages, some Supreme Court and District Court judges faced a backlog of pending cases. Of particular concern were postponements of rulings on constitutional cases, some of which dated back years.

Trial Procedures.—The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. A trial judge examines evidence and determines if there are grounds to proceed. Defendants have the presumption of innocence. Trials are public, and juries are used. Defendants have the right to be present and to timely consultation with an attorney, at public expense if re-

quired. Defendants may confront witnesses and present witnesses and evidence on their own behalf. Defendants and their attorneys have access to government-held evidence, and defendants have the right to appeal a verdict. The law extends these rights to all citizens.

Many civil and criminal matters were handled by village fono, which varied considerably in their decision-making styles and the number of matai involved in the decisions. The Village Fono Act recognizes the decisions of the fono and provides for limited appeal to the Lands and Titles Court and the Supreme Court. The nature and severity of the dispute determine which court receives an appeal. A further appeal may be made to the Court of Appeal if necessary. According to a 2000 Supreme Court ruling, fono may not infringe upon villagers' freedom of religion, speech, assembly, or association.

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

Civil Judicial Procedures and Remedies.—There is an independent and impartial judiciary in civil matters, including access to a court to bring lawsuits seeking damages for, or cessation of, human rights violations.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The laws prohibit such actions, and the government generally respected these prohibitions in practice. However, there is little or no privacy in villages, where there can be substantial societal pressure on residents to grant village officials access without a warrant.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice.

Individuals generally could criticize government officials publicly or privately without reprisal. However, in May the Supreme Court found opposition member of parliament (MP) Asiata Sale'imoa Vaai guilty of contempt of court after a newspaper published a letter he wrote to the editor accusing the chief justice of bias in favor of the governing party. Although Asiata appealed, the original ruling was upheld; however, no prison sentence or fine was imposed on Asiata.

The independent media were generally active and expressed a wide variety of views without restriction. The law stipulates imprisonment for any journalist who, despite a court order, refuses to reveal a confidential source upon request from a member of the public. However, there has been no court case invoking this law.

Internet Freedom.—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Although for financial reasons private ownership of computers was relatively uncommon, access to the Internet through Internet cafes was generally available and widely used in urban areas. Internet access was limited to nonexistent in rural areas. The International Telecommunication Union reported that approximately 5 percent of the country's inhabitants used the Internet in 2008.

Academic Freedom and Cultural Events.—The government generally did not restrict academic freedom or cultural events. In April, however, the Censorship Board banned the film *Milk* due to its homosexual scenes (see section 6), and in May banned the film *Angels and Demons* to "avoid any religious discrimination by other denominations and faiths against the Catholic Church." Other films also reportedly banned by the board included *The Butcher*, *Van Wilder*, *Unborn*, and *The Cell* 2.

b. Freedom of Peaceful Assembly and Association.—The constitution provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The constitution provides for freedom of religion, and the government generally respected this right in practice. The constitution acknowledges an "independent state based on Christian principles and Samoan custom and traditions"; however, there is no official or state denomination. The law grants each person the right to change religion or belief and to worship or teach religion alone or with others, but in practice the matai often choose the religious denomination of their extended family.

Societal Abuses and Discrimination.—There were no significant reports of societal religious discrimination. There was no organized Jewish community in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf/.

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

The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. However, traditional law governs villages, and village fono regularly banned citizens from village activities or banished citizens from the village for failing to conform to village laws or obey fono rulings. Cases of village banishment were rarely made public. Of those cases that became known during the year, reasons for banishment included murder, rape, adultery, and unauthorized claims to land and matai title. In some cases civil courts have overruled banishment orders. Some banished persons were accepted back into the village after performing a traditional apology ceremony called "ifoga."

The government was willing to cooperate with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern, but the need did not arise during the year.

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

Protection of Refugees.—The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. The law provides for the granting of refugee status, but the government has not established a system for providing protection to refugees. The government received no requests during the year for refugee status, asylum, or protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

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

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

Elections and Political Participation.—The most recent elections, held in 2006, were marred by charges of bribery. As a result of election challenges filed by losing candidates, the Supreme Court ordered 10 by-elections. All the mandated by-elections were conducted and generally considered free and fair.

The law does not prohibit the formation of opposition parties, but there were no officially recognized opposition parties. In June the speaker of the house ordered by-elections for the seats of nine independent MPs who claimed membership in the Tautua Samoa Party (TSP). The speaker asserted, as justification for this action, that the Samoa Electoral Act prohibited formation of any new party in parliament if it was not registered before the previous general election (in this case, in 2006). The TSP sought a legal injunction against the speaker's decision, and also filed a lawsuit against the speaker seeking five million dollars in damages. In July the chief justice ruled against the speaker's interpretation of the act's wording in this regard and in favor of the TSP. However, in October parliament passed amendments to the Electoral Act providing that MPs must vacate their parliamentary seats if they become members of a political party or organization that was not registered at the time of the previous general election, or if they become members of a party or organization of which they were not members when they took their oath of allegiance as MPs. In December the TSP suspended indefinitely, but did not formally withdraw, its suit.

While the constitution gives all citizens above age 21 the right to vote and run for office, by social custom candidates for 47 of the 49 seats in parliament are drawn from the approximately 30,000 matai. Matai are selected by family agreement; there is no age qualification. Although both men and women are permitted to become matai, only 8 percent were women. Matai controlled local government through the village fono, which were open to them alone.

There were four women in the 49-member parliament, three of whom served in the 13-member cabinet. In addition, one woman served as head of a constitutional office, two women as chief executive officers of government ministries, and six women as general managers of government corporations.

The political rights of citizens who are not of ethnic Samoan heritage are addressed by the reservation of two parliamentary seats for at-large MPs, known as "individual voters" seats. One at-large cabinet minister and MP was of mixed European-Samoan heritage. Citizens of mixed European-Samoan or Chinese-Samoan heritage were well represented in the civil service.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government generally implemented the law effectively. Penalties ranged from several months to several years of imprisonment if convicted. There were isolated reports of government corruption during the year.

Public officials were not subject to financial disclosure laws; however, such disclosure was encouraged by codes of ethics applicable to boards of directors of government-owned corporations. The law provides for an ombudsman to investigate complaints against government agencies, officials, or employees, including allegations of corruption. The ombudsman may require the government to provide information relating to a complaint.

In June an account officer in the Ministry of Police and two account officers in the Ministry of Finance pled not guilty to a 2008 charge of embezzling 350,000 (approximately \$142,275) in police funds. The case subsequently was adjourned and was expected to resume in February 2010. In July a former principal accountant at the Ministry of Revenue-Customs was convicted of embezzling more than 4,400 tala (approximately \$1,800) and ordered to repay the embezzled funds plus court fees.

Under the law government information is subject to disclosure in civil proceedings involving the government, unless the information is considered privileged or its disclosure would harm the public interest. In the case of other requests, requesters had to go through an often-slow bureaucratic process, and consequently information was not always obtainable in a timely manner.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

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

The government cooperated with international governmental organizations and permitted visits by UN representatives and other organizations. Representatives of various UN agencies visited the country during the year, including visits related to tsunami disaster relief efforts.

The Office of the Ombudsman was generally considered effective and operated free from government or political party interference; however, the government did not always adopt its recommendations.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on race, sex, disability, language, or social status, and the government generally respected these provisions in practice. However, politics and culture reflected a heritage of matai privilege and power, and members of certain families of high traditional status had some advantages.

Women.—The constitution prohibits abuse of women, but common societal attitudes tolerated their physical abuse within the home, and such abuse was common.

Rape is illegal, but there is no legal provision against spousal rape. Many cases of rape went unreported because common societal attitudes discouraged such reporting. In recent years, however, authorities noted a rise in the number of reported cases of rape. This appeared to be a result of efforts by government ministries and local NGOs to increase awareness of the problem and the need to report rape cases to police. Rape cases that reached the courts were treated seriously, and the conviction rate was generally high. The penalties for rape ranged from two years' to life imprisonment, but a life sentence has never been imposed. In July a former cabinet minister pled not guilty to 22 charges, including attempted rape, indecent assault, and unlawful intimidation, brought on the basis of complaints from former employees in his household. His trial had not yet begun at year's end.

Domestic abuses typically went unreported due to social pressure and fear of reprisal. Village fono typically punished domestic violence offenders, but only if the abuse was considered extreme (i.e., visible signs of physical abuse). Village religious leaders also were permitted to intervene in domestic disputes. When police received complaints from abused women, the government punished the offender, including by imprisonment. Domestic violence is charged as common criminal assault, with penalties ranging from several months to one year in prison. The government did not keep statistics on domestic abuse cases specifically but acknowledged the problem to be one of considerable concern. A senior judge pled not guilty to a charge of assault brought by his wife in April; however, the case was dismissed in December when the plaintiff failed to appear at a court hearing.

The Ministry of Police has a 10-person Domestic Violence Unit, which received reports of domestic abuse and worked in collaboration with NGOs that combated do-

mestic abuse. NGO services for abused women included confidential hot lines, in-person counseling, victim support, and shelters.

In June the country hosted a congress of women's ministries of the Seventh Day Adventist Church, with particular focus on the problem of domestic violence. According to press reports, hundreds of persons participated in a "peace march" in Apia prior to the conference to call for action against abuse of women and children.

Prostitution is illegal; it existed but was not widespread. The law prohibits sexual harassment; it was not widespread but was believed to be underreported.

Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children without discrimination, coercion, or violence. The National Health Service, private hospitals, and general practitioners, as well as various health care centers, provided information and access to contraception and essential obstetric and postpartum care. Women and men had equal access to diagnosis and treatment for sexually transmitted infections, including HIV.

Women have equal rights under the constitution and statutory law, and the traditional subordinate role of women was changing, albeit slowly, particularly in the more conservative parts of society. The Ministry of Women, Community, and Social Development oversees and helps secure the rights of women. To integrate women into the economic mainstream, the government sponsored numerous programs, including literacy programs and training programs for those who did not complete high school.

A provision of labor law prohibits employment of women between midnight and 6:00 a.m. unless special permission has been granted by the commissioner of labor. This regulation was generally observed. Permission for night work was generally granted upon application.

Children.—Citizenship is derived by birth in the country if at least one parent is a citizen; the government may also grant citizenship by birth to a child born in the country if the child would otherwise be stateless. Citizenship also is derived by birth abroad to a citizen parent who either was born in Samoa or resided there at least three years.

The government made a strong commitment to the welfare of children through the implementation of various youth programs by the Ministry of Women, Community, and Social Development in collaboration with the Ministries of Education and Health. Education is compulsory through age 14; however, the government did not enforce this law. Public education was not free; students were required to pay some school fees.

Law and tradition prohibit severe abuse of children, but both tolerate corporal punishment. Although there were no official statistics available, press reports indicated a rise in reported cases of child abuse, especially incest and indecent assault cases, which appeared to be due to citizens' increased awareness of the need to report physical, emotional, and sexual abuse of children. The government aggressively prosecuted such cases. For example, in March a 36-year-old father was sentenced to 20 years' imprisonment for incest and carnal knowledge for raping his 15-year-old daughter. In May a church minister, earlier acquitted of a rape charge, was found guilty of indecent assault and sentenced to one year in prison, and a 44-year-old man was sentenced to 16 years' imprisonment after pleading guilty to raping his daughter. However, there remained instances in which cultural factors inhibited reporting of child sexual abuse to police. In August the family of a 14-year-old victim of a homosexual rape reportedly accepted an apology and material compensation in lieu of prosecution, due to fear of societal stigma.

The minimum age for consensual sex is 16; the maximum penalty for violators is seven years' imprisonment. There is no specific criminal provision regarding child pornography; however, child pornography cases can be prosecuted under a provision of law that prohibits distribution or exhibition of indecent matter. The maximum penalty is two years' imprisonment.

The Ministry of Justice and Courts Administration and the Ministry of Education, in collaboration with NGOs, carried out educational activities to address domestic violence and inappropriate behavior between adults and children and to promote human rights awareness.

Trafficking in Persons.—The law does not specifically prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, through, or within the country.

There are laws against kidnapping that could be used to prosecute trafficking-related activities. The law provides for a penalty of up to 10 years in prison for kidnapping any person with the intent to transport, imprison, or hold for service. Abducting or receiving a child under age 16 is punishable by up to seven years' imprisonment.

onment. A transnational crimes unit monitors crimes related to trafficking in persons.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip/.

Persons With Disabilities.—There is no law pertaining specifically to the status of persons with disabilities or regarding accessibility for them. Tradition dictates that families care for persons with disabilities, and this custom was observed widely in practice. There were no reports of discrimination against persons with disabilities in the areas of employment, education, access to health care, or the provision of other state services. Many public buildings were old, and only a few were accessible to persons with disabilities. Most new buildings provided better access, including ramps and elevators in most multistory buildings.

The Ministry of Women, Community, and Social Development has responsibility for protecting the rights of persons with disabilities.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Sodomy and “indecent between males” are illegal, with maximum penalties of seven and five years’ imprisonment, respectively. However, these provisions were not actively enforced with regard to consensual homosexual acts between adults. There were no reports of societal violence based on sexual orientation or gender identity; however, there were isolated cases of discrimination. In April the government Censorship Board rejected the screening of the film *Milk*, about the life of gay rights activist Harvey Milk, on the basis that the film had “inappropriate scenes” that contradicted the country’s Christian beliefs. In contrast, the board allowed the screening of the film *Lesbian Vampire Killers* with the explanation that the film was not necessarily about lesbians, but about the legend of female vampires.

The Samoa Fa’afafine Association, a local transgender organization, operated freely, without government interference; the prime minister was the patron of the association.

Other Societal Violence or Discrimination.—There were no reports of societal violence or discrimination against persons with HIV/AIDS.

Section 7. Worker Rights

a. The Right of Association.—Workers legally have unrestricted rights to establish and join organizations of their own choosing. There were no practical limitations to union membership, and approximately 20 percent of the private sector workforce was unionized. The Public Service Association (PSA) functioned as a union for all government workers, who comprised approximately 8,000 of the approximately 25,000 workers in the formal economy. Unions generally conducted their activities free from government interference.

The Supreme Court has upheld the right of government workers to strike, subject to certain restrictions imposed principally for reasons of public safety, and workers have exercised this right.

Workers in the private sector have the right to strike, but there were no private-sector strikes during the year.

In September bus owners stopped service to protest the government’s refusal to pay part of the cost of retrofitting their buses following a government-ordered change from driving on the right-hand side of the road to the left-hand side. The action ended after the government offered owners a three-week extension to make the changes and assistance in negotiating extensions on loan repayments to commercial banks to finance the changes. However, the government rejected the Samoa Bus Association’s request for direct financial assistance and additional time to comply.

b. The Right to Organize and Bargain Collectively.—The law provides workers with the right to organize and bargain collectively, and workers exercised this right in practice. The PSA engages in collective bargaining on behalf of government workers, including bargaining on wages. Arbitration and mediation procedures are in place to resolve labor disputes, although such disputes rarely arose.

There are no special laws or exemptions from regular labor laws in the sole export processing zone.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, but matai frequently called upon persons, including minors, to work for their villages. Most persons did so willingly; however, the matai may compel those who do not.

d. Prohibition of Child Labor and Minimum Age for Employment.—It is illegal to employ children under the age of 15 except in “safe and light work.” The Ministry of Labor refers complaints of illegal child labor to the attorney general for enforce-

ment; however, no cases were prosecuted during the year. The law does not apply to service rendered to family members or the matai, some of whom required children to work for the village, primarily on village farms. The extent of this practice varied by village, but it generally did not significantly disrupt children's education.

Children frequently were seen vending goods and food on Apia street corners. The government has not made a definitive determination as to whether this practice violates the country's labor laws, which cover only persons who have a place of employment. Although the practice may constitute a violation of the law, local officials mostly tolerated it.

e. Acceptable Conditions of Work.—An advisory commission to the minister of labor makes recommendations on minimum wage increases every five years, based on national surveys held every three years. There were two minimum wages, last increased in 2005: two tala (approximately \$0.80) per hour for the private sector, and 2.40 tala (approximately \$.98) for the public sector. Neither provided a decent standard of living for a worker and family unless supplemented by other activities, such as subsistence farming and fishing. Wages in the private sector are determined by competitive demand for the required skills but should not be less than the minimum private-sector wage.

The provisions of the Labor Act cover only the private sector; a separate law, the Public Service Act, covers public-sector workers. Labor laws stipulate a standard work week of no more than 40 hours, or eight hours per day (excluding meal times). For the private sector, overtime pay is specified at time and a half, with double time for work on Sundays and public holidays and triple time for overtime on such days. For the public sector, there is no paid overtime, but compensatory time off is given for overtime work.

The Occupational Safety Hazard Act establishes certain rudimentary safety and health standards for workplaces, which the Ministry of Commerce, Industry, and Labor is responsible for enforcing. The law also covers persons who are not workers but who are lawfully on the premises or within the workplace during work hours. However, independent observers reported that safety laws were not enforced strictly, except when accidents highlighted noncompliance. Work accidents were investigated when reports were received. Many agricultural workers, among others, were inadequately protected from pesticides and other dangers to health. Government education and awareness programs addressed these concerns by providing appropriate training and equipment to agricultural workers. Safety laws do not apply to agricultural service rendered to the matai.

While the law does not address specifically the right of workers to remove themselves from dangerous work situations, the commissioner of labor investigates such cases, without jeopardy to continued employment. The government investigated several cases during the year. Government employees are covered under different and more stringent regulations, which were enforced adequately by the Public Service Commission.

SINGAPORE

Singapore is a parliamentary republic in which the People's Action Party (PAP), in power since 1959, overwhelmingly dominates politics. The population was approximately five million, with nonresident foreign workers accounting for one quarter of the total. Opposition parties exist, and the 2006 parliamentary elections were generally fair and free of tampering; however, the PAP placed formidable obstacles in the path of political opponents. Civilian authorities generally maintained effective control of the security forces.

The government has broad powers to limit citizens' rights and handicap political opposition, which it used. Caning is an allowable punishment for numerous offenses. The following human rights problems also were reported: preventive detention, infringement of citizens' privacy rights, restriction of speech and press freedom and the practice of self-censorship by journalists, restriction of freedoms of assembly and association, limited restriction of freedom of religion, and some trafficking in persons.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and the government generally respected these prohibitions.

The law mandates caning, in addition to imprisonment, as punishment for approximately 30 offenses involving violence, such as rape and robbery, and for non-violent offenses such as vandalism, drug trafficking, and violation of immigration laws. The cane, made of rattan, is four feet long and one-half inch in diameter; it is soaked in water and treated with antiseptic before the caning. The caning officer delivers the strokes using the whole of his body weight. Caning is discretionary for convictions on other charges involving the use of force, such as kidnapping or voluntarily causing grievous hurt. All women, men over age 50 or under age 16, and persons determined medically unfit are exempt from punishment by caning. Through November 4,228 convicted persons were sentenced to caning, and 99.8 percent of caning sentences were carried out.

Prison and Detention Center Conditions.—Prison and detention center conditions generally met international standards.

According to the International Centre for Prison Studies, as of mid-2008 there was a total prison population of 12,349, of whom 8.4 percent were women, and as of mid-2007 the juvenile prison population was 4.7 percent of the total. The designed capacity of the prison system was 13,826.

The government did not allow human rights monitors to visit prisons; however, diplomatic representatives were given consular access to citizens of their countries.

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

Role of the Police and Security Apparatus.—Civilian authorities maintained effective control over the police force and the armed forces, and the Ministry of Home Affairs and the Corrupt Practices Investigation Bureau had effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

Arrest Procedures and Treatment While in Detention.—The law provides that, in most instances, arrests are to be carried out after issuance of an authorized warrant; however, some laws, such as the Internal Security Act (ISA), provide for arrests without warrants. Those arrested under warrants must be charged before a magistrate within 48 hours. The majority of those arrested were charged expeditiously and brought to trial. A functioning bail system exists. Those who face criminal charges are allowed counsel; however, there is no access to counsel during an initial arrest and investigation before charges are filed. The government assigned attorneys to represent indigent persons accused of capital crimes. The Law Society administered a legal aid plan for some other accused persons who could not afford to hire an attorney.

Some laws—the ISA, the Criminal Law (Temporary Provisions) Act (CLA), the Misuse of Drugs Act (the drug act), and the Undesirable Publications Act (UPA)—have provisions for arrest and detention without a warrant, and under the ISA, CLA, and drug act, executive branch officials can order continued detention without judicial review. The ISA has been employed primarily against suspected security threats; in recent years against suspected terrorists. The CLA has been employed primarily against suspected organized crime and drug trafficking.

The ISA and the CLA permit preventive detention without trial for the protection of public security, safety, or the maintenance of public order. The ISA authorizes the minister for home affairs, with the consent of the president, to order detention without filing charges if it is determined that a person poses a threat to national security. The initial detention may be for up to two years, and the minister for home affairs may renew the detention for an unlimited number of additional periods of up to two years at a time with the president's consent. Detainees have a right to be informed of the grounds for their detention and are entitled to counsel. However, they have no right to challenge the substantive basis for their detention through the courts. The ISA specifically excludes recourse to the normal judicial system for review of a detention order made under its authority. Instead, detainees may make representations to an advisory board, headed by a Supreme Court justice, which reviews each detainee's case periodically and must make a recommendation to the president within three months of the initial detention. The president may concur with the advisory board's recommendation that a detainee be released prior to the expiration of the detention order, but he is not obligated to do so.

At year's end, 16 detainees were held under the ISA as suspected terrorists. All of these detainees were suspected of belonging to the terrorist group Jemaah Islamiyah.

A religious rehabilitation program designed to wean detained terrorists from extremist ideologies is in effect, and a number of detainees were released under the program, subject to Restriction Orders (ROs) limiting their movements. The authorities stated that all of the detainees released cooperated in investigations and responded positively to rehabilitation.

At year's end, 45 persons were on ROs. This number included both released detainees and suspected terrorists who were never arrested. A person subject to an RO must seek official approval for a change of address or occupation, for overseas travel, or for participation in any public organization or activity.

The CLA comes up for renewal every five years and was renewed in February, with effect from October. Under the CLA the minister for home affairs may order preventive detention, with the concurrence of the public prosecutor, for an initial period of one year, and the president may extend detention for additional periods of up to one year at a time. The minister must provide a written statement of the grounds for detention to the Criminal Law Advisory Committee (CLAC) within 28 days of the order. The CLAC then reviews the case at a private hearing. CLAC rules require that detainees be notified of the grounds of their detention at least 10 days prior to this hearing, in which a detainee may represent himself or be represented by a lawyer. After the hearing the committee makes a written recommendation to the president, who may cancel, confirm, or amend the detention order. Persons detained under the CLA have recourse to the courts via an application for a writ of habeas corpus. Persons detained without trial under the CLA are entitled to counsel, but they may challenge the substantive basis for their detention only to the CLAC. The CLA was used almost exclusively in cases involving narcotics or criminal organizations and has not been used for political purposes. In 2008 the most recent year for which statistics were available, the government issued 64 detention orders and six police supervision orders, and 290 persons were in detention under the CLA. During the five-year period from 2004 through 2008, the government detained 366 persons and released 272 persons under the CLA.

Persons who allege mistreatment while in detention may bring criminal charges against government officials alleged to have committed such acts; no such cases were reported during the year.

Both the ISA and the CLA contain provisions that allow for modified forms of detention such as curfews, residence limitations, requirements to report regularly to the authorities, limitations on travel, and, in the case of the ISA, restrictions on political activities and association.

The drug act also permits detention without trial. Under the drug act, if a suspected drug abuser tests positive for an illegal drug, the director of the Central Narcotics Bureau (CNB) may commit the person to a drug rehabilitation center for a six-month period, which is extendable by a review committee of the institution for up to a maximum of three years. At year's end 617 persons were held in drug rehabilitation centers, 494 of whom were admitted between January and November. Under the Intoxicating Substances Act, the CNB director may order the treatment of a person believed to be an inhalant drug abuser for up to six months.

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary, and the government generally respected judicial independence; however, in practice constitutionally authorized laws that limit judicial review permit restrictions on individuals' constitutional rights. The president appoints judges to the Supreme Court on the recommendation of the prime minister and in consultation with the chief justice. The president also appoints subordinate court judges on the recommendation of the chief justice. The term of appointment is determined by the Legal Service Commission (LSC), of which the chief justice is the chairman. Under the ISA and the CLA, the president and the minister for home affairs have substantial de facto judicial power, which explicitly (in the case of the ISA) or implicitly (in the case of the CLA) excludes normal judicial review. These laws provide the government with the power to limit, on vaguely defined national security grounds, the scope of certain fundamental liberties that otherwise are provided for in the constitution.

Government leaders historically have used court proceedings, in particular defamation suits, against political opponents and critics. Both this practice and consistent awards in favor of government plaintiffs raised questions about the relationship between the government and the judiciary and led to a perception that the judiciary reflected the views of the ruling party in politically sensitive cases.

The judicial system has two levels of courts: the Supreme Court, which includes the High Court and the Court of Appeal, and the subordinate courts. Subordinate court judges and magistrates, as well as public prosecutors, are civil servants whose specific assignments are determined by the LSC, which can decide on job transfers to any of several legal service departments. The subordinate courts handle the great

majority of civil and criminal cases in the first instance. The High Court may hear any civil or criminal case, although it generally limited itself to civil matters involving substantial claims and criminal matters carrying the death penalty or imprisonment of more than 10 years. The Court of Appeal is the highest and final court of review for matters decided in the subordinate courts or the High Court. Supreme Court justices may remain in office until the mandatory retirement age of 65, after which they may continue to serve at the government's discretion for brief, renewable terms at full salary. Some commentators and representatives of international non-governmental organizations (NGOs) said that the LSC's authority to rotate subordinate court judges and magistrates and the government's discretion with regard to extending the tenure of Supreme Court judges beyond the age of 65 undermined the independence of the judiciary.

In addition the law provides for Islamic courts whose authority is limited to Islamic family law, which is applicable only to Muslims.

A two-tier military court system has jurisdiction over all military personnel, civilians in the service of the armed forces, and volunteers when they are ordered to report for service. The system handled approximately 450 cases each year. The Military Court of Appeal has jurisdiction to examine an appeal from a person convicted by a subordinate military court. Trials are public, and defendants have the right to be present. An accused individual also has the right to defense representation.

Trial Procedures.—The law provides for the right to a fair trial, and independent observers viewed the judiciary as generally impartial and independent, except in a small number of cases involving direct challenges to the government or the ruling party. The judicial system generally provides citizens with an efficient judicial process. In normal cases the Criminal Procedure Code provides that a charge against a defendant must be read and explained to him as soon as it is framed by the prosecution or the magistrate. Trials are public and heard by a judge; there are no jury trials. Defendants have the right to be present at their trials and to be represented by an attorney; the Law Society administers a criminal legal-aid plan for those who cannot afford to hire an attorney. In death penalty cases, the Supreme Court appoints two attorneys for defendants who are unable to afford their own counsel. Defendants also have the right to question opposing witnesses, to provide witnesses and evidence on their own behalf, and to review government-held evidence relevant to their cases. Defendants enjoy a presumption of innocence and the right of appeal in most cases. Despite the general presumption of innocence, the drug act stipulates that a person, who the prosecution proves has illegal narcotics in his possession, custody, or control, shall be assumed to be aware of the substance and places the burden on the defendant to prove otherwise. The same law also stipulates that, if the amount of the narcotic is above set low limits, it is the defendant's burden to prove he or she did not have the drug for the purpose of trafficking. Convictions for narcotics trafficking offenses carry lengthy jail sentences or the death penalty, depending on the type and amount of the illegal substance.

Persons detained under the ISA or CLA are not entitled to a public trial. In addition proceedings of the advisory board under the ISA and CLA are not public.

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

Civil Judicial Procedures and Remedies.—There is no differentiation between civil and criminal judicial procedures. The subordinate courts handled the majority of civil cases. Access to the courts is open, and citizens and residents have the right to sue for infringement of human rights. There were no known attempts to use legal action against the government for human rights violations.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution does not address privacy rights; remedies for infringement of some aspects of privacy rights are available under statutory or common law. The government generally respected the privacy of homes and families; however, it had a pervasive influence over civic and economic life and sometimes used its broad discretionary powers to infringe on these rights. Normally the police must have a warrant issued by a court to conduct a search; however, they may search a person, home, or property without a warrant if they decide that such a search is necessary to preserve evidence or under the discretionary powers of the ISA, CLA, the drug act, and the UPA.

Law enforcement agencies, including the Internal Security Department and the Corrupt Practices Investigation Board, had extensive networks for gathering information and conducting surveillance and highly sophisticated capabilities to monitor telephone and other private conversations. No court warrants are required for such operations. Most residents believed that the authorities routinely monitored telephone conversations and the use of the Internet. Most residents also believed that

the authorities routinely conducted surveillance of some opposition politicians and other government critics.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of speech and freedom of expression but permits official restrictions on these rights, and in practice the government significantly restricted freedom of speech and of the press. Government intimidation and pressure to conform resulted in self-censorship among journalists; however, there was a moderate level of debate in newspapers and on the Internet on some public issues such as income inequality, immigration policy, and the role of religion in public life.

Under the ISA the government may restrict or place conditions on publications that incite violence; counsel disobedience to the law; have the potential to arouse tensions in the country's diverse population; or might threaten national interests, national security, or public order. The ISA has not been invoked in recent years against political opponents of the government.

Government leaders urged that news media support the goals of the elected leadership and help maintain social and religious harmony. In addition to strict defamation and press laws, the government's demonstrated willingness to respond vigorously to what it considered personal attacks on officials led journalists and editors to moderate or limit what was published. In an October 26 address to a group of foreign lawyers, the minister of law noted that the government does not seek to proscribe press criticism but "demands the right of response, to be published in the journal that published the original article.[and] if untrue statements are made—that a person is corrupt or that he lied—there will be a suit. Let the accuser prove it."

Citizens do not need a permit to speak at indoor public gatherings outside the hearing or view of nonparticipants, unless the topic refers to race or religion.

The government effectively restricts the ability to speak or demonstrate freely in public to a single location called Speakers' Corner, which is located in a public park. Prospective speakers must be citizens or permanent residents and show their identification cards. Events need not be registered in advance with the police but must be preregistered online with the government. While it was not necessary to declare speech topics in advance, regulations governing the Speakers' Corner state that "the speech should not be religious in nature and should not have the potential to cause feelings of enmity, ill will, or hostility between different racial or religious groups."

The government strongly influenced both the print and electronic media. Two companies, Singapore Press Holdings Limited (SPH) and MediaCorp, owned all general circulation newspapers in the four official languages—English, Chinese, Malay, and Tamil. MediaCorp was wholly owned by a government investment company. SPH was a private holding company with close ties to the government; the government must approve (and can remove) the holders of SPH management shares, who have the power to appoint or dismiss all directors or staff. As a result, while newspapers printed a large and diverse selection of articles from domestic and foreign sources, their editorials, coverage of domestic events, and reporting of sensitive foreign relations topics usually closely reflected government policies and the opinions of government leaders.

Columnists' opinions and letters to the editor expressed a moderate range of opinions on public issues.

Government-linked companies and organizations operated all domestic broadcast television channels and almost all radio stations. Only one radio station, the BBC World Service, was completely independent of the government. Some Malaysian and Indonesian television and radio programming could be received, but satellite dishes were banned, with few exceptions. Cable subscribers had access to several foreign television news channels and many entertainment channels, including some with news programs; these were not censored.

The Media Development Authority (MDA), a statutory board under the Ministry of Information, Communications, and the Arts (MICA), continued to censor broadcast media, Internet sites, and all other media, including movies, video materials, computer games, and music. Banned publications consisted primarily of sexually oriented materials but also included some religious and political publications. Both the MDA and MICA developed censorship standards with the help of a citizen advisory panel. The ISA, the UPA, and the Films Act allow the banning, seizure, censorship, or restriction of written, visual, or musical materials if authorities determine that such materials threaten the stability of the state, contravene moral norms, are pornographic, show excessive or gratuitous sex and violence, glamorize or promote drug use, or incite racial, religious, or linguistic animosities. The MDA has the power to sanction broadcasters for broadcasting what it believes to be inappropriate content.

All content shown between 6 a.m. and 10 p.m. must be suitable for viewers of all ages.

A substantial number of foreign media operations were located within the country, and a wide range of international magazines and newspapers could be purchased uncensored. However, under the Newspaper and Printing Presses Act (NPPA), the government may limit the circulation of foreign publications that it determines interfere with domestic politics. The NPPA requires foreign publications that report on politics and current events in Southeast Asia, with circulation of 300 or more copies per issue, to register, post a S\$200,000 (approximately \$140,000) bond, and name a person in the country to accept legal service. The government has granted exemptions to 19 of the 24 publications to which these requirements could apply. The Far Eastern Economic Review (FEER, which has announced that it will cease publication for economic reasons) continued to be subject to a 2006 government ban for failing to comply with the NPPA. Importation or possession of FEER for sale or distribution was an offense. Readers could access FEER on the Internet. Newspapers printed in Malaysia cannot be imported without a special permit.

The government may limit (or “gazette”) the circulation of publications. The government also may ban the circulation of domestic and foreign publications under provisions of the ISA and the UPA. The Broadcasting Act empowers the minister for information, communication, and the arts to gazette or place formal restrictions on any foreign broadcaster deemed to be engaging in domestic politics. Once gazetted, a broadcaster can be required to obtain express permission from the minister to continue broadcasting in the country. The government may impose restrictions on the number of households receiving a broadcaster’s programming, and a broadcaster may be fined up to S\$100,000 (approximately \$70,000) for failing to comply.

Critics charged that government leaders used defamation lawsuits or threats of such actions to discourage public criticism and intimidate opposition politicians and the press. Conviction on criminal defamation charges may result in a prison sentence of up to two years, a fine, or both. There were no known new defamation suits or threats of defamation suits against media organizations during the year. On October 7, the High Court upheld a summary judgment against the editor and publisher of FEER in the 2006 defamation suit brought by Prime Minister Lee Hsien Loong and Minister Mentor Lee Kuan Yew in connection with a published interview with opposition politician Chee Soon Juan. In November the editor and publisher agreed to settle the case by paying the Lees S\$350,000 (\$250,000) in damages and S\$45,000 (\$32,000) in costs.

The attorney general may bring charges for contempt of court, and he used this power to charge several persons who published criticisms of the judiciary.

On March 19, the High Court found a senior editor of the Wall Street Journal Asia in contempt of court based on the newspaper’s 2008 publication of three items, including a letter to the editor that questioned the independence of courts from the PAP government. The court fined the editor S\$10,000 (approximately \$7,200) and assessed another S\$10,000 in court costs against her. In 2008 the High Court had fined the publisher, Dow Jones, S\$25,000 (\$18,000) based on the same publications.

In September the Law Society commenced disciplinary proceedings in absentia against Gopalan Nair, who is now a foreign citizen, based on his 2008 convictions for contempt of court for criticizing certain judges in blog postings. Nair had apologized for those statements and removed them from his blog, and he was permitted to leave the country in November 2008; he subsequently retracted his apology and reposted his criticisms on the Internet. Some observers believed that the disciplinary proceeding was retaliation for Nair’s actions after leaving the country.

Internet Freedom.—Although residents generally had unrestricted access to the Internet, the government subjected all Internet content to the same rules and standards as traditional media. However, the government did not appear to enforce many restrictions on Internet content, and some banned videos and other materials were accessible online. Internet service providers (ISPs) are required to ensure that content complies with the MDA’s Internet code of practice. The MDA also regulates Internet material by licensing the ISPs through which local users are required to route their Internet connections. The law permits government monitoring of Internet use, and the government closely monitored Internet activities such as blogs and podcasts. The MDA was empowered to direct service providers to block access to Web sites that, in the government’s view, undermined public security, national defense, racial and religious harmony, or public morals. Political and religious Web sites must register with the MDA. Although the MDA ordered ISPs to block 100 specific Web sites that the government considered pornographic, in general the government focused on blocking only a small number of sites. The Internet was widely

available and used. According to International Telecommunication Union statistics for 2008, approximately 73 percent of the country's inhabitants used the Internet.

Academic Freedom and Cultural Events.—All public institutions of higher education and political research had limited autonomy from the government. Although faculty members are not technically government employees, in practice they were subject to potential government influence. Academics spoke, published widely, and engaged in debate on social and political issues. However, they were aware that any public comments outside the classroom or in academic publications that ventured into prohibited areas—criticism of political leaders or sensitive social and economic policies, or comments that could disturb ethnic or religious harmony or appeared to advocate partisan political views—could subject them to sanctions. Publications by local academics and members of research institutions rarely deviated substantially from government views.

In March Parliament amended the Films Act to permit certain previously banned political films. Documentary films “without any animation and composed wholly of an accurate account” depicting events, persons, or situations, and party-political videos, party manifestoes, or declarations of policy are now permitted, provided they do not contain “dramatic” elements. In September the government approved the first independent political documentary for exhibition since 1998. The Films Act does not apply to any film sponsored by the government and allows the MICA minister to exempt any film from the act. The amended Films Act also preserves the MICA minister's power to ban any film, whether political or not, that in his opinion is “contrary to the public interest.”

A list of banned films was available on the MDA Web site. Certain films that were barred from general release may be allowed limited showings, either censored or uncensored, with a special rating.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The constitution provides citizens the right to peaceful assembly but permits Parliament to impose restrictions “it considers necessary or expedient” in the interest of security, public order, or morality; in practice the government restricted this right. Public assemblies, including political meetings and rallies, require police permission. The threshold for a public assembly was previously an event involving at least five persons, but in an act passed on April 13, Parliament redefined “public assembly” to include events staged by as few as one person. However, citizens do not need permits for indoor speaking events unless they touch on “sensitive topics” such as race or religion, or for qualifying events held at Speakers' Corner. Spontaneous public gatherings or demonstrations were virtually unknown.

In October a court acquitted five members of the opposition Singapore Democratic Party charged with taking part in a 2007 procession without a valid permit. However, the court based its decision on the applicable statute's failure to define the term “procession.” Parliament's April 13 change in the public assembly laws introduced a definition of “procession” that would apply in future cases. The government appealed the October acquittals to the High Court.

In December Chee Soon Juan, Chee Siok Chin, and Gandhi Ambalan were convicted of illegal assembly and fined S\$1,000 (approximately \$700). The three refused to pay their fines, and instead each served one week in prison.

The government closely monitored political gatherings regardless of the number of persons present. Plain-clothes police officers often monitored political gatherings.

Freedom of Association.—Most associations, societies, clubs, religious groups, and other organizations with more than 10 members are required to register with the government under the Societies Act. The government denied registration to groups that it believed were likely to have been formed for unlawful purposes or for purposes prejudicial to public peace, welfare, or public order. The government has absolute discretion in applying criteria to register or dissolve societies. During the year the Registry of Societies received 268 registration applications. One application processed was denied, nine were withdrawn, and 50 were pending at year's end.

The government prohibits organized political activities except by groups registered as political parties or political organizations. This prohibition limits opposition activities disproportionately and contributes to restricting the scope of unofficial political expression and action. The PAP was able to use nonpolitical organizations, such as residential committees and neighborhood groups, for political purposes far more extensively than opposition parties. Political parties and organizations are subject to strict financial regulations, including a ban on receiving foreign donations. Due to laws regulating the formation of publicly active organizations, there were few NGOs apart from nonpolitical organizations such as religious groups, ethnically oriented organizations, and providers of welfare services.

c. Freedom of Religion.—The constitution provides for freedom of religion; however, the government restricted this right in some circumstances. The constitution provides that all citizens or persons in the country have the right to profess, practice, or propagate their religious beliefs so long as such activities do not breach any other laws relating to public order, public health, or morality.

All religious groups were subject to government scrutiny. These groups must be registered under the Societies Act. The Maintenance of Religious Harmony Act (MRHA) authorizes the minister for home affairs to issue, at his discretion, a restraining order against any person in a position of authority within a religious group who is causing feelings of enmity or hostility between different religious groups, or is promoting political causes, carrying out subversive activities, or exciting disaffection against the government under the guise of practicing religion. The MRHA prohibits judicial review of restraining orders issued under its authority. Any restraining order must be referred to the Council for Religious Harmony, which recommends to the president that the order be confirmed, canceled, or amended. Restraining orders lapse after, at most, 90 days unless confirmed by the president. The minister must review a confirmed restraining order at least once every 12 months and may revoke such an order at any time. No restraining order has been issued since the MRHA was enacted in 1990.

The Presidential Council for Minority Rights examines all legislation to ensure that it does not disadvantage particular racial or religious communities. The council also considers and reports on matters concerning any racial or religious community that are referred to it by Parliament or the government. The government maintains a relationship with the Muslim community through the Islamic Religious Council (MUIS), which was established under the Administration of Muslim Law Act. The MUIS advises the government on the Muslim community's concerns, drafts a weekly approved sermon, maintains regulatory authority over Muslim religious matters, and oversees a fund financed by voluntary payroll deductions and used for mosque building and social and educational purposes.

The Jehovah's Witnesses and Unification Church remained banned along with all written materials published by the Jehovah's Witnesses' publishing affiliates, the International Bible Students Association, and the Watch Tower Bible and Tract Society. A person in possession of banned literature can be fined up to S\$2,000 (approximately \$1,400); for holding a meeting, the fine can be as high as S\$4,000 (\$2,800). There were no arrests of Unification Church members reported during the year. The government declined to make data available to the public concerning arrests of Jehovah's Witnesses during the year.

There were allegations that Falun Gong practitioners faced obstacles in obtaining or renewing work permits, visas, or permanent residency status.

While the government did not prohibit evangelical activities, in practice it discouraged activities that could upset intercommunal relations, such as unsolicited public proselytizing. In May a court convicted a Christian couple of sedition and distribution of objectionable publications for disseminating Christian pamphlets potentially offensive to Muslims. In sentencing each defendant to eight weeks in prison, the court ruled that the right to proselytize is constrained by the imperative to respect the religious beliefs of others. The couple served five and a half weeks in prison, with the remaining time remitted for good behavior. They lost their jobs as a result of their criminal convictions.

In his August 16 National Day speech, Prime Minister Lee noted dangers to the country's "social cohesion" arising from aggressive proselytizing, religious intolerance, and self segregation. He prescribed four "rules" governing religion in public life: racial and religious groups must exercise tolerance and "rules that apply only to one group cannot be made into laws that apply to everyone;" religion must be separate from politics; government must be secular, and public policy must be based on "secular, rational considerations of public interest;" and common space—notably schools and workplaces—must accommodate members of all religions. He also noted that members of Parliament must not use churches or religious groups to mobilize support.

Societal Abuses and Discrimination.—The size of the Jewish community was approximately 800 to 1,000. There were no reports of societal religious discrimination or of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution and the law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice; however, it limited them in a few re-

spects. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Citizens' choice of where to live sometimes was limited by the government's legal requirement for ethnic balance in publicly subsidized housing, in which the majority of citizens lived. The government required all citizens and permanent residents over the age of 15 to register and to carry identification cards. The government may refuse to issue a passport and did so in the case of former ISA detainees. Under the ISA a person's movement may be restricted. According to official press releases, at year's end there were 45 suspected terrorists subject to such restrictions.

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

The right of voluntary repatriation was extended to holders of national passports. The government actively encouraged citizens living overseas to return home or at least to maintain active ties with the country. A provision of the law allows for the loss of citizenship by citizens who reside outside the country for more than 10 consecutive years, but it was not known to have been used.

In June a court issued a warrant for the arrest of opposition politician Chee Soon Juan for failing to appear at the resumption of a hearing on charges arising from a 2006 protest. As a bankrupt, Chee was required to seek the permission of the Official Assignee (OA) to leave the country; as a criminal defendant, he was required to seek similar permission from the trial court. Chee obtained the OA's permission to travel to Taiwan to visit his dying father-in-law, but the court declined his application. When Chee traveled to Taiwan without court permission, the presiding judge issued an arrest warrant and rescinded it only upon receiving documentary proof of Chee's father-in-law's death.

Men are required to serve 24 months of uniformed national service upon turning 18 years of age. They also are required to undergo reserve training up to the age of 40 (for enlisted men) or 50 (for officers). Male citizens and permanent residents with national service reserve obligations are required to advise the Ministry of Defense if they plan to travel abroad. Persons 13 years of age or older who have not completed national service obligations are required to obtain exit permits for international travel. To obtain the required permit, a prospective traveler must post a bond equal to S\$75,000 (approximately \$54,000) or 50 percent of the combined gross annual income of both parents for the preceding year, whichever is greater. The bond requirement applies to travelers aged 16 1/2 years and above for travel exceeding three months, and to travelers age 13 to 16 1/2 for travel lasting two years or more.

In exchange for allowing former members of the Communist Party of Malaya (CPM) residing outside the country to return to Singapore, the government imposes three conditions: they must renounce communism, sever all links with the CPM, and agree to be interviewed by the Internal Security Department about their past activities. Some ex-CPM cadres accepted these conditions and returned, but some observers estimated that approximately 30 alleged CPM members have not.

Protection of Refugees.—The country is not a party to the 1951 UN Convention relating to the Status of Refugees or its 1967 protocol. Its laws do not provide for the granting of asylum or refugee status, although the government has established a system for providing protection to refugees on a case-by-case basis. In practice the government provided protection against expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

During the year the government required some Burmese nationals who held permanent residence status in Singapore to leave the country upon expiration of their visas. The authorities determined that these persons had attempted to hold demonstrations without approval and had ignored police warnings. They were not required to return to Burma but departed for third countries.

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

The constitution provides citizens the right to change their government peacefully. Opposition parties can contest elections, and the voting and vote-counting systems are fair and free from tampering; however, the PAP, which has held power continuously and overwhelmingly for five decades, has used the government's extensive powers to place formidable obstacles in the path of political opponents.

Elections and Political Participation.—Following the 2006 elections, the PAP (having captured 66.6 percent of the vote) held 82 of 84 elected constituency seats in Parliament; the opposition Singapore Democratic Alliance (13.1 percent) and the Workers' Party (16.3 percent) each held one elected seat. Because three seats are

reserved by law for opposition parties, the Workers' Party obtained a second, "non-constituency" seat as the opposition party with the highest vote total.

The opposition continued to criticize what it described as PAP abuse of its incumbency advantages to handicap opposition parties. The PAP maintained its political dominance in part by intimidating organized political opposition and circumscribing political discourse and action. The belief that the government might directly or indirectly harm the employment prospects of opposition supporters inhibited opposition political activity; however, there were no confirmed cases of such retaliation. As a result of these and other factors, opposition parties were unable to challenge seriously the ruling party. The PAP claimed that the lack of an effective opposition was due to disorganization, weak leadership, and the absence of persuasive alternative policies.

The PAP has an extensive grassroots system and a carefully selected, highly disciplined membership. The establishment of government-organized and predominantly publicly funded Community Development Councils (CDCs) further strengthened the PAP's position. The CDCs promoted community development and cohesion and provided welfare and other assistance services. The PAP dominated the CDCs even in opposition-held constituencies from which it threatened to withdraw publicly funded benefits.

The PAP completely controlled key positions in and out of government, influenced the press, pursued opposition political figures in the courts, and otherwise limited opposition political activities. Often the means were fully consistent with the law and the normal prerogatives of a parliamentary government, but the overall effect was to disadvantage and weaken political opposition. Since 1988 the PAP changed all but nine single-seat constituencies into group representational constituencies (GRCs) of five to six parliamentary seats, in which the party with a plurality wins all of the seats. According to the constitution, such changes are permitted to ensure ethnic minority representation in Parliament; each GRC candidate list must contain at least one ethnic minority candidate. These changes made it more difficult for opposition parties, all of which had very limited memberships, to fill multimember candidate lists. The constitutional requirement that members of Parliament resign if expelled from their party helped ensure backbencher discipline.

Although political parties legally were free to organize, they operated under the same limitations that applied to all organizations, and the authorities imposed strict regulations on their constitutions, fundraising, and accountability. There were 26 registered political parties in the country; however, only seven of these were active. Political parties and organizations were subject to strict financial regulations, including a ban on receiving foreign donations. Government regulations hindered attempts by opposition parties to rent office space in government housing blocks or to establish community foundations. In addition government influence extended in varying degrees to academic, community service, and other NGOs.

The law provides for a president to be popularly elected for a six-year term from among candidates who are approved by a constitutionally prescribed committee selected by the government. In 2005 the committee decided that the PAP-endorsed incumbent, President S.R. Nathan, was the only qualified candidate out of four applicants. The election was cancelled, and Nathan was inaugurated for a second term. The government placed significant obstacles in the way of opposition political figures' presidential candidacies. For example, opposition members were much less likely to satisfy the requirement that candidates have experience in managing the financial affairs of a large institution, since many of the country's large institutions were run by or linked to the government.

Voting is compulsory, and 95 percent of eligible voters voted in the most recent general election. However, more than 43 percent of those eligible voters lived in GRCs where the opposition was unable to field candidates and the PAP candidates were automatically elected. There is no legal bar to the participation of women in political life; women held 17 of the 84 elected parliamentary seats. There were three female ministers of state, including, since April, one of cabinet rank. Three of the 15 Supreme Court justices were women. The solicitor general was a woman.

There are no restrictions in law or practice against minorities voting or participating in politics; they actively participated in the political process and were well represented throughout the government, except in some sensitive military positions. Malays made up approximately 15 percent of the general population and held approximately the same percentage of elected seats in Parliament. Indians made up approximately 9 percent of the general population and held approximately 11 percent of the elected seats in Parliament. There were four ethnic Indian ministers and one ethnic Malay minister. Two of the 14 members of the Supreme Court were ethnic Indian; there were no Malays on the court.

Section 4. Official Corruption and Government Transparency

There were no reports of government corruption during the year. In the past the government actively prosecuted officials involved in corruption. The salaries of senior officials are public information, and political parties must report donations; however, there is no financial disclosure law. The Corrupt Practices Investigation Board, which answers directly to the prime minister, is responsible for investigating and prosecuting corruption by government officials.

There are no laws that specifically provide for public access to government information.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Efforts by independent organizations to investigate and evaluate government human rights policies faced the same obstacles as those faced by opposition political parties. NGOs were subject to registration under the Societies Act. Some domestic NGOs criticized restrictions on human rights or suggested changes that would relax or remove restrictions.

The government did not obstruct international human rights organizations from observing human rights-related court cases.

Some international human rights NGOs criticized the government's policies in areas such as capital punishment and freedom of expression. The government generally ignored such criticisms or published rebuttals. The government actively participated in the creation of the Association of Southeast Asian Nations Intergovernmental Commission on Human Rights, which was inaugurated in October.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution states that all persons are equal before the law and entitled to the equal protection of the law, and the government generally respected these provisions in practice; there is no explicit provision granting equal rights to women and minorities. Mindful of the country's history of intercommunal tension, the government took measures to ensure racial, ethnic, religious, and cultural nondiscrimination. Social, economic, and cultural benefits and facilities were available to all citizens regardless of race, religion, or gender.

Women.—The government enforced the law against rape, which provides for imprisonment of up to 20 years and caning for offenders. Under the law rape can be committed only by a man, and spousal rape is generally not a crime. However, husbands who force their wives to have intercourse can be prosecuted for other offenses, such as assault, and spousal rape is a criminal offense when the couple is separated, subject to an interim divorce order that has not become final, or subject to a written separation agreement, as well as when a court has issued a protection order against the husband. During the year 16 persons were prosecuted for rape; there were seven convictions, and 14 persons were awaiting trial. The Ministry of Education and the police carried out programs aimed at preventing rape.

The law criminalizes domestic violence and intentional harassment. A victim of domestic violence can obtain court orders barring the spouse from the home until the court is satisfied that the spouse has ceased aggressive behavior. The law prescribes mandatory caning and a minimum imprisonment of two years for conviction on any charge of "outraging modesty" that caused the victim fear of death or injury. The press gave prominent coverage to instances of abuse or violence against women. Several voluntary welfare organizations provided assistance to abused women. During the year there were applications for Personal Protection Orders, including a number filed by wives for protection against their husbands. The government did not provide data concerning such orders.

Prostitution is not illegal; however, public solicitation, living on the earnings of a prostitute, and maintaining a brothel are illegal. The authorities periodically carried out crackdowns on solicitation for prostitution and arrested and deported foreign prostitutes, particularly when their activities took place outside informally designated red-light areas. In practice police unofficially tolerated and monitored a limited number of brothels; prostitutes in such establishments were required to undergo periodic health checks and carry a health card.

There are no specific laws prohibiting stalking or sexual harassment; however, the Miscellaneous Offenses Act (MOA) and laws prohibiting insults to modesty were used successfully to prosecute these offenses. Under the MOA a person who uses threatening, abusive, or insulting words or behavior can incur a fine of up to S\$5,000 (\$3,500). A 2008 survey by a local NGO found that 54 percent of respondents (58.3 percent of females and 42 percent of males) reported having experienced some form of sexual harassment at work. The Ministry of Manpower, the National

Trades Union Council, and the Singapore Employers Federation jointly operated a venue for public feedback and advice on fair employment practices.

Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children. Contraceptive supplies and information, provided by the Ministry of Health, as well as public and private doctors, were readily available. Medical services were available, including for sexually transmitted diseases, and were provided without discrimination. The national birthrate was well below replacement levels and since the mid-1980s the government has pursued pronatalist policies, which provide comprehensive clinical services and a wide range of social and fiscal incentives.

Women accounted for 56 percent of civil service employees. They enjoyed the same legal rights as men, including civil liberties, employment, commercial activity, and education. The Women's Charter gives women, among other rights, the rights to own property, conduct trade, and receive divorce settlements. Muslim women enjoyed most of the rights and protections of the Women's Charter. For the most part, Muslim marriage falls under the administration of the Muslim Law Act, which empowers the Shari'a (Islamic law) court to oversee such matters. The law allows Muslim men to practice polygyny, although requests to take additional spouses may be refused by the Registry of Muslim Marriages, which solicits the views of an existing wife or wives and reviews the financial capability of the husband. During the year there were 36 applications for polygynous marriages. As of year's end, nine of those applications were approved, and those remaining were either rejected, withdrawn, or pending. Polygynous marriages constituted 2.1 percent of Muslim marriages.

Both men and women have the right to initiate divorce proceedings; however, in practice some women faced significant difficulties that prevented them from pursuing such proceedings. This included the lack of financial resources to obtain legal counsel. Men do not have the right to seek alimony from their wives in cases of divorce or separation.

In recent years women constituted approximately 54 percent of the labor force and were well represented in many professions. However, women held few leadership positions in the private sector and only one cabinet-level position in the government. Women were overrepresented in low-wage jobs such as clerks and secretaries. In 2008 salaries for women ranged upwards from 66 percent of men's salaries depending on the occupational grouping. In some occupations women earned more than their male counterparts.

Children.—Citizenship is derived from one's parents, and birth registration is essentially universal.

The Children and Young Persons Act created a juvenile court system and established protective services for children orphaned, abused, "troubled," or with disabilities. The Ministry of Community Development, Youth, and Sports (MCYS) worked closely with the National Council for Social Services to oversee children's welfare cases. Voluntary organizations operated most of the homes for children, while the government funded a substantial portion of living expenses and overhead, as well as expenses for special schooling, health care, and supervisory needs.

Some child prostitution occurred. During the year authorities arrested 41 female prostitutes believed to be under the age of 18, and one man was prosecuted for and convicted of commercial sex with a minor under 18. The age of consent to non-commercial sex is 16 years. Sexual intercourse with anyone under 16 is punishable by up to five years in prison and a maximum fine of S\$10,000 (approximately \$7,200). The authorities may detain persons under 18 who are believed to be engaged in prostitution, as well as to prosecute those who organize or profit from prostitution, who bring women or girls to the country for prostitution, or who coerce or deceive women or girls into prostitution.

The MCYS sponsored activities promoting children's causes, including family stability.

Trafficking in Persons.—The law prohibits all forms of trafficking in persons; however, the country was a destination for women and girls trafficked from Southeast Asia and China for prostitution. Some foreign domestic workers were subjected to abusive labor conditions that may be indicative of labor trafficking, including physical or sexual abuse; confiscation of travel documents; confinement; inadequate food, rest, or accommodation; deception about wages or conditions of work; and improper withholding of pay. Some women from Thailand and the Philippines who traveled to the country voluntarily for prostitution or other work were deceived or coerced into sexual servitude.

Three major laws govern trafficking and prostitution: the Women's Charter, the Children and Young Persons Act, and the penal code. Trafficking in women and children, regardless of whether it is related to prostitution, is punishable by up to

five years' imprisonment, a S\$10,000 (approximately \$7,200) fine, and caning. Traffickers could be prosecuted under provisions governing kidnapping, abduction, slavery, and forced labor, which carry maximum punishments of 10 years' imprisonment and a fine. Convicted traffickers could be found guilty of violating more than one law. There was no specific campaign to combat or prevent the use of fraud or coercion to recruit foreign women for prostitution.

Between April 2008 and March, the government identified two victims of trafficking for sexual exploitation. In one case, involving a victim under the age of 18, the trafficker was convicted of commercial sexual exploitation of a minor and received a one-year prison term. In the other case, involving an adult who returned to her home country before making a police report credibly alleging that she was coerced into prostitution, the trafficker was convicted of living off the earnings of prostitution and fined S\$12,000 (\$8,500).

Law enforcement efforts aimed at curbing prostitution may have resulted in victims of trafficking being penalized for acts committed as a direct result of being trafficked. In 2008 police arrested thousands of foreign women (including 54 children) for prostitution, who were generally incarcerated and then deported. The number of trafficking victims among this group is unknown; however, government measures to identify potential trafficking victims appear to have been limited.

In practice successful investigation and prosecution of trafficking in persons required that victims remain in or return to the country to testify. Victims did not receive government assistance during this period or at other times and were dependent on support from their respective embassies or from voluntary welfare organizations (VWOs). Some VWOs received government funding based on referrals for shelter or other services. The government encouraged identified victims to assist in the investigation and prosecution of trafficking offenders and made available to all foreign victims of crime temporary immigration relief that allowed them residency pending conclusion of their criminal cases. The country does not otherwise provide trafficking victims with a legal alternative to removal, including to countries where they may face hardship and retribution. Laws prohibiting the harboring, aiding, or abetting of illegal immigrants could, as written, subject to prosecution NGOs that assist potential trafficking victims; however, the authorities did not prosecute any NGOs on that basis.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The government maintained a comprehensive code on barrier-free accessibility; this established standards for facilities for persons with physical disabilities in all new buildings and mandated the progressive upgrading of older structures. There was no comprehensive legislation addressing equal opportunities for persons with disabilities in education or employment; however, the National Council of Social Services, in conjunction with various voluntary associations, provided an extensive job training and placement program for persons with disabilities. The government also ran vigorous campaigns to raise public awareness of issues confronting persons with disabilities and the services available to them. A tax deduction of up to S\$100,000 (approximately \$72,000) was available to employers to defray the expense of building modifications to benefit employees with disabilities. The country allows guide dogs for the blind into public places and on public transportation. During the year 100 percent of public trains and 13.2 percent of buses were wheelchair accessible.

Informal provisions in education permit university matriculation for the visually impaired, those hard of hearing, and students with other physical disabilities. More than 6,342 children with intellectual disabilities attended mainstream schools during the year. There were 20 special education schools that enrolled approximately 4,900 students. All primary and secondary schools were equipped with basic handicap facilities such as handicap toilets and first-level wheelchair ramps. The government provided funds for 29 childcare centers to take in 1,377 children with special needs.

The government allows a tax deduction of up to S\$3,500 (approximately \$2,500) per individual for families caring for a sibling, spouse, or child with a disability. Mental and physical disabilities are treated in the same way. Press coverage of the activities and achievements of persons with disabilities was extensive, and discrimination or abuse of persons with disabilities did not appear to be a problem.

National/Racial/Ethnic Minorities.—Ethnic Malays constituted approximately 15 percent of the population. The constitution acknowledges them as the indigenous people of the country and charges the government to support and promote their political, educational, religious, economic, social, cultural, and language interests. The government took steps to encourage greater educational achievement among Malay

students. However, ethnic Malays have not reached the educational or socioeconomic levels achieved by the ethnic Chinese majority, the ethnic Indian minority, or the Eurasian community. Malays remained underrepresented at senior corporate levels and, some asserted, in certain sectors of the government and the military. This reflected their historically lower educational and economic levels, but some argued that it also was a result of employment discrimination. Some ethnic Indians also reported that discrimination limited their employment and promotion opportunities. Government guidelines called for eliminating language referring to age, gender, or ethnicity in employment advertisements; restrictive language pertinent to job requirements, such as “Chinese speaker” remained acceptable. These guidelines were generally followed.

The Presidential Council on Minority Rights examined all pending bills to ensure that they were not disadvantageous to a particular group. It also reported to the government on matters that affected any racial or religious community.

Government policy enforced ethnic ratios for publicly subsidized housing.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—A vigorous debate took place in 2007, when an ultimately unsuccessful attempt took place to repeal the section of the penal code criminalizing sex between men. After the attempt failed, Prime Minister Lee stated that the authorities would not actively enforce the statute, leaving gay men free to live their private lives in peace as long as they did not actively promote their sexual orientation.

The sensitivity of the issue emerged again during the year when social conservative activists temporarily seized control of a women’s rights NGO, the Association of Women for Action and Research (AWARE), and accused AWARE’s former leadership of promoting homosexual conduct in the public schools through a sex education program designed under AWARE’s auspices. The Ministry of Education suspended use of the AWARE sex education program pending further review.

On May 16, a rally in support of “the freedom of lesbian, gay, bisexual, and transgender persons in Singapore to love” took place at Speakers Corner. Participants held pink umbrellas aloft and arranged themselves to form a large pink dot when seen from nearby high-rise buildings. The rally took place without disturbance.

Other Societal Violence or Discrimination.—Some individuals with HIV/AIDS claimed that they were socially marginalized and faced employment discrimination if they revealed they were suffering from the disease. The government discouraged discrimination, supported initiatives that countered misperceptions about HIV/AIDS, and publicly praised employers that welcomed workers with HIV/AIDS.

Section 7. Worker Rights

a. The Right of Association.—The constitution provides all citizens the right to form associations, including trade unions; however, Parliament may impose restrictions based on security, public order, or morality grounds. The right of association was restricted by the Societies Act and by labor and education laws and regulations. Under these laws any group of 10 or more persons is required to register with the government. The Trade Unions Act authorizes the formation of unions with broad rights, albeit with some narrow restrictions such as prohibitions on the unionization of uniformed personnel or government employees. The Amalgamated Union of Public Employees was declared exempt from these provisions, and its scope of representation expanded to cover all public sector employees except the most senior civil servants.

The Trade Unions Act restricts the right of trade unions to elect their officers and to choose whom they may employ. Foreigners and those with criminal convictions may not hold union office or become employees of unions. However, the minister of manpower may grant exemptions. The Trade Unions Act limits the objectives for which unions can spend their funds and prohibits payments to political parties or the use of funds for political purposes. The national labor force consisted of approximately three million workers, 519,000 of whom were represented by 69 unions. Almost all of the unions (which represented virtually all union members) were affiliated with the National Trade Union Congress (NTUC), an umbrella organization with a close relationship with the government.

The NTUC acknowledged that its interests were linked closely with those of the ruling PAP, a relationship often described by both as symbiotic. The NTUC’s secretary general, Lim Swee Say, a PAP member of parliament (MP), was a member of the cabinet as minister in the Prime Minister’s Office. Young PAP MPs with no union experience were elected to leadership positions in the NTUC or member unions. NTUC policy prohibited union members who supported opposition parties from holding office in affiliated unions. While the NTUC was financially inde-

pendent of the PAP, the two shared a common ideology and worked closely with management in support of nonconfrontational labor relations. The NTUC was free to associate regionally and internationally.

Workers in “essential services” are required to give 14 days’ notice to an employer before striking, and there is a prohibition on strikes by workers in the water, gas, and electricity sectors. Other workers have the legal right to strike but rarely did so. No specific laws prohibit retaliation against strikers. The law provides that before striking, 51 percent of unionized workers must vote in favor of the strike by secret ballot, as opposed to the more common practice of 51 percent of those participating in the vote. There were no strikes during the year.

Most disagreements were resolved through informal consultations with the Ministry of Manpower. If conciliation failed, the disputing parties usually submitted their case to the tripartite Industrial Arbitration Court (IAC), which was composed of representatives from labor and management and chaired by a judge. In limited situations the law provides for compulsory arbitration, which has not been used since 1980.

b. The Right to Organize and Bargain Collectively.—Collective bargaining was a normal part of labor-management relations in the industrial sector. The IAC must certify collective agreements before they go into effect. The IAC may refuse certification at its discretion on the ground of public interest. In 2008, 355 collective agreements were filed with the IAC. Union members may not reject collective agreements negotiated between their union representatives and the employer. Transfers and layoffs are excluded from the scope of collective bargaining. However, in practice employers consulted with unions on both issues, and the Tripartite Panel on Retrenched Workers issued guidelines calling for early notification to unions of layoffs.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The government enforced the Employment Act, which prohibits employment of children under the age of 13. Restrictions on the employment of children between the ages of 13 and 16 are rigorous and were fully enforced. Children under the age of 15 generally are prohibited from employment in the industrial sector. Exceptions include family enterprises; children may work in a business in which only members of the same family are employed. A child age 13 or older may be employed in light work, subject to medical clearance. Employers must notify the commissioner of labor within 30 days of hiring a child between the ages of 15 and 16 and attach a medical certification of the child’s fitness for employment. The incidence of children in permanent employment was low, and abuses were almost nonexistent.

Ministry of Manpower regulations prohibit night employment of children and restrict industrial work for children between the ages of 15 and 16 to no more than seven hours a day, including the hours spent in school. Children may not work on commercial vessels, with moving machinery, on live electrical apparatus lacking effective insulation, or in any underground job. The minister of manpower effectively enforced these laws and regulations.

e. Acceptable Conditions of Work.—There are no laws or regulations on minimum wages or unemployment compensation. Agreements between management and labor were renewed every two to three years, although wage increases were negotiated annually. The National Wages Council, a group composed of labor, management, and government representatives, issued yearly guidelines on raises and bonus pay that served as the starting point for bargaining agreements. Subject to negotiation in each enterprise, up to 10 percent of salaries was considered “variable” each month, allowing companies to eliminate that portion of pay if there were financial problems. The labor market generally offered citizens and permanent residents good working conditions and relatively high wages that provided a decent standard of living for a worker and family. In 2008 the median income among all households headed by a citizen or permanent resident was S\$59,400 (approximately \$42,400); among employed households headed by a citizen or permanent resident, the median income was S\$65,760 (\$47,000).

The Employment Act sets the standard legal workweek at 44 hours and provides for one rest day each week.

The Ministry of Manpower effectively enforced laws and regulations establishing working conditions and comprehensive occupational safety and health laws. Enforcement procedures, coupled with the promotion of educational and training programs, were implemented to reduce the frequency of job-related accidents. While workers

have the right under the Employment Act to remove themselves from a dangerous work situation, their right to continued employment depended upon an investigation by the ministry.

Because of a domestic labor shortage, approximately 700,000 foreign workers were employed legally. There were no reliable estimates of the number of foreigners working illegally. Most foreign workers were unskilled laborers and household servants from other Asian countries. Although substantial numbers of foreign workers held white-collar jobs, foreign workers were generally concentrated in low-wage, low-skill jobs and were often required to work long hours. Employers are required by law to provide their workers with a minimum standard of housing. Several instances of employers housing their workers in substandard housing, or failing to provide any housing, were reported during the year.

Although the great majority of the approximately 180,000 foreign domestic workers (mainly from the Philippines and Indonesia) worked under clearly outlined contracts and reported no complaints against their employers or employment agencies, their low wages, dependence on their employers for food and lodging, and relative isolation made some of them vulnerable to mistreatment, abuse, and labor conditions that in some cases could amount to involuntary servitude. The authorities fined or imprisoned employers who abused maids. During the year the Ministry of Manpower collected unpaid wages on behalf of maids in 219 cases. Pregnancy is a breach of the standard work permit conditions for foreign domestic workers, and the government may cancel work permits and require repatriation of foreign domestic workers who become pregnant.

The Employment Act protects foreign workers such as the many employed in the construction industry; however, domestic servants are not covered by the act and are not eligible for limited free legal assistance from the government. The NTUC reported that it advocated for the rights of all migrant work-permit holders through its Migrant Workers' Forum. In addition the Ministry of Manpower offered conciliation services for all employees, foreign or local. The Foreign Workers Unit of the ministry provided free advisory and mediation services to foreign workers experiencing problems with employers. The government allowed complainants to seek legal redress and operated a hotline for maids. During the year the hotline received approximately 2,193 calls, 95 percent of which were general inquiries.

SOLOMON ISLANDS

The Solomon Islands is a constitutional multiparty parliamentary democracy with a population of approximately 523,000. Parliamentary elections held in 2006 were considered generally free and fair, although there were incidents of vote buying. In 2007 Parliament elected Derek Sikua as prime minister. The Regional Assistance Mission to the Solomon Islands (RAMSI), a multinational police-centered force organized by Australia, arrived in the country in 2003 at the government's invitation to assist in restoring law and order and rebuilding the country's institutions following the 1998 to 2003 period of violent conflict between the Malaitan and Guadalcanalese ethnic groups. RAMSI continued its assistance during the year, and relations between RAMSI and the government remained stable. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, but there were problems in some areas. Human rights problems included lengthy pretrial detention, government corruption, and violence and discrimination against women.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no confirmed reports of such practices during the year. There were a few allegations by detainees that they were mistreated by police during questioning, but they often lacked substantiating evidence.

Since its arrival in 2003, RAMSI apprehended and charged more than 240 persons allegedly responsible for human rights abuses and other criminal acts. All these cases had been resolved by year's end.

Prison and Detention Center Conditions.—Prison conditions generally met international standards. The government permitted monitoring visits by independent human rights observers, and such visits occurred during the year.

The International Committee of the Red Cross (ICRC) had a program in place to cover costs for family visits to long-term prisoners from other provinces held in Honiara.

d. Arbitrary Arrest and Detention

The constitution prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus.—A commissioner who reports to the minister of police heads the Royal Solomon Islands Police (RSIP) force of approximately 1,060 members, including 140 women. This force was supported by 278 RAMSI Participating Police Force officers, who served in line positions and in logistical and financial support. Peter Marshall, a New Zealander, was appointed police commissioner in 2008.

While the police were more effective under RAMSI, the RSIP continued to be weak in investigation and reporting. The police service has an inspection unit to monitor police discipline and performance. Police corruption and impunity were not serious problems during the year. However, some observers criticized the police as more loyal to their respective ethnic group, or wantok (extended family), than to the country as a whole.

At year's end no trial date had been set in the case of a Honiara probationary police officer charged with indecent assault and attempted rape in November 2008. He was discharged from the police and remained free on bail at year's end.

Arrest Procedures and Treatment While in Detention.—The law provides for a judicial determination of the legality of arrests. Detainees generally were informed promptly of the charges against them and have the right to counsel. The Public Solicitor's Office provided legal assistance to indigent defendants, and detainees had prompt access to family members and to counsel. Officials found to have violated civil liberties were subject to fines and jail sentences. There was a functioning system of bail. However, delays in adjudication of the large number of cases before the courts resulted in lengthy pretrial detention for some detainees. During the year RAMSI brought in 10 lawyers from Australia and the Pacific Islands to eliminate the backlog of cases.

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right.

Trial procedures normally operated in accordance with British common law, with a presumption of innocence, access to attorneys, and the right to access government-held evidence, confront witnesses, and appeal convictions. Judges conduct trials and render verdicts; there are no juries. Accused persons are entitled to counsel, and an attorney was provided at public expense for indigent defendants facing serious criminal charges.

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

Civil Judicial Procedures and Remedies.—There is an independent and impartial judiciary in civil matters; local courts and magistrates' courts have civil jurisdiction. In addition, the constitution provides that any person whose rights or freedoms have been contravened may apply directly to the High Court for redress.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of speech and of the press, and the government generally respected these rights in practice.

In 2008 RAMSI initiated the Solomon Islands Media Strengthening Scheme (SOLMAS), which continued during the year. SOLMAS worked with the Media Association of Solomon Islands, the Solomon Islands Broadcasting Corporation, and the Department of Communications to provide training and technical support to local journalists.

Internet Freedom.—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. In practice cost factors and lack of infrastructure limited

public access to the Internet. The International Telecommunication Union reported that approximately 2 percent of the country's inhabitants used the Internet in 2008.

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

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The constitution provides for freedom of assembly, and the government generally respected this right in practice. Demonstrators must obtain permits, which the government generally granted.

Freedom of Association.—The constitution provides for freedom of association, and the government generally respected this right in practice.

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

Societal Abuses and Discrimination.—There were no reports of societal abuses or discrimination against religious groups, including anti-Semitic acts. The Jewish community was very small.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the government did not use it. Native-born citizens may not be deprived of citizenship on any grounds.

Protection of Refugees.—Although party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, the country's laws do not provide for the granting of asylum or refugee status, and the government has not established a system for providing protection to refugees. The government did not grant refugee status or asylum during the year. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

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

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

Elections and Political Participation.—The 2006 national parliamentary elections were regarded as generally free and fair, although there was evidence of vote buying. In April 2006 rioting broke out in Honiara immediately following the election of Snyder Rini as prime minister. Rini resigned, and in May 2006 Parliament elected Manasseh Sogavare as prime minister. In 2007 Sogavare's government lost a vote of no confidence, and Parliament elected opposition candidate Derek Sikua as prime minister.

Political parties could operate without restriction, but they were institutionally weak, with frequent shifts in political coalitions and unstable parliamentary majorities.

Male dominance in government limited the role of women. There were no women in the 50-member Parliament. Five women served as permanent secretaries in the Sikua government. There was one female judge on the High Court.

There were two minority (non-Melanesian) members of Parliament (MPs).

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials often engaged in corrupt practices with impunity. Government corruption and impunity in both the executive and legislative branches continued to be serious problems.

Public officials were subject to financial disclosure laws under the leadership code of conduct. The Office of the Leadership Code Commission (LCC) investigates matters of misconduct involving MPs or senior civil servants. If the LCC finds that there is conclusive evidence of misconduct, the LCC sends the matter to the Department of Public Prosecution, which may then proceed with legal charges. The LCC chairman and two part-time commissioners make up a tribunal that has the power

to screen certain cases of misconduct and apply fines of up to SB\$5,000 (approximately \$660) on MPs or senior civil servants. The Ombudsman Commission is responsible for investigating public complaints of government maladministration.

During the year MP Peter Shanel's appeal of his 2008 conviction for unlawful wounding and possession of an unlawful weapon in a restricted area was dismissed by the High Court. He served a nine-month jail sentence; after his release, he won back his seat in Parliament and remained an MP at year's end.

At year's end the investigation continued of 16 MPs from the National Alliance Party of Solomon Islands (NAPSI) for accepting SB\$50,000 (approximately \$6,625) in loans from Bobo Dettke, a prominent Honiara businessman and founder of NAPSI. Some alleged that the money was provided by logging companies that wanted to influence key ministries. In March the LCC held a hearing on the case; however, due to lack of sufficient witnesses and evidence, the LCC commissioners referred the matter back to the LCC's Investigation Department for further investigation.

During the year the High Court upheld the government's appeal in the cases of a former East Honiara MP and a former cabinet minister charged in 2004 and 2005, respectively, with official corruption involving the granting of certificates of naturalization to Chinese nationals. A court had acquitted both on the basis of insufficient evidence, and the government appealed the verdicts. At year's end both men were awaiting a retrial.

In October former prime minister Sir Allan Kemakeza won election to Parliament in a by-election in the Savo-Russells constituency. He had previously been removed from Parliament due to his 2007 conviction for intimidation, larceny, and demanding money with menace in connection with a 2002 attack by a group of men on a Honiara law firm that owned shares in the country's national bank. Although he was released from prison in January after serving six months of a two-year sentence, at year's end his appeal of his conviction was still pending, and several other candidates, as well as a number of MPs, criticized as unconstitutional the government's decision to allow him to run for the seat.

In September the LCC chairman confirmed that, due to a lack of staff and resources, there was a backlog of more than 50 cases still being investigated, including a number of new cases and 13 cases waiting to be heard by the High Court.

No law provides for public access to government information. In practice the government generally was responsive to inquiries from the media during the year. In September Prime Minister Sikua announced a weekly media conference to keep the public informed of the government's decisions and activities.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

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

The Guadalcanal Peace Building and Reconciliation Committee (GPRC) was formed in 2007 to plan the reconciliation and peace process on Guadalcanal. The GPRC has 15 members appointed by the Minister for National Unity, Reconciliation, and Peace (MNURP). Together with the Malaita Peace and Reconciliation Committee, the GPRC planned and coordinated peace and reconciliation activities in consultation with the MNURP. Since the establishment of the two committees, work plans were produced and some key activities were implemented, including provincial and community consultations and dialogue forums, and the establishment of task forces on Marau and Guadalcanal Province reconciliation, RSIP and Guadalcanal Provincial Government (GPG) reconciliation, and national government and GPG reconciliation, respectively. During the year the MNURP also recruited a number of peace mediators from local communities on short-term contracts as part of the ministry's continuing work in strengthening the peace-building capacity of existing structures.

The government cooperated with international governmental organizations and permitted visits by UN representatives and other organizations. There were a number of visits from UN representatives during the year; however, no public reports were released.

The constitution provides for an ombudsman, with the power to subpoena and to investigate complaints of official abuse, mistreatment, or unfair treatment. While the Ombudsman's Office has potentially far-ranging powers, it was limited by a shortage of resources.

In April the Guadalcanal Truth and Reconciliation Commission was launched by South African Nobel Peace Prize winner Bishop Desmond Tutu. The commission is

an independent body comprising three national and two international commissioners. It was established to hear accounts of violence and abuse experienced by thousands of citizens during the 1998-2003 period of ethnic violence between Malaitans and Guadalcanalese and to provide a forum for victims and perpetrators to speak about the causes and impact of that violence. However, since its establishment the commission's work was hindered by funding constraints and slow bureaucratic processes.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution provides that no person—regardless of race, place of origin, color, or disability—shall be treated in a discriminatory manner with respect to access to public places. The constitution further prohibits any laws that would have discriminatory effects and provides that no person should be treated in a discriminatory manner by anyone acting in an official capacity. Despite constitutional and legal protections, women remained the victims of discrimination in the male-dominated society. Unemployment remained high, and there were limited job opportunities for persons with disabilities.

Women.—Violence against women, including rape and domestic abuse, remained a serious problem. Among the reasons cited for the failure to report many incidents of abuse were pressure from male relatives, fear of reprisals, feelings of shame, and cultural taboos on discussion of such matters.

The maximum penalty for rape is life imprisonment. Spousal rape is not a crime. As part of the police curriculum, officers received specialized training on how to work with rape victims. The police have a Sexual Assault Unit, staffed mostly by female officers, to combat the problem.

The law does not specifically address domestic violence; however, there are provisions against common assault. Although statistics were unavailable, incidents of domestic violence appeared to be common. Both the assistant police commissioner for crime and intelligence and the coordinator for the nongovernmental organization (NGO)-supported Family Support Center confirmed that domestic violence complaints were received almost every week. However, in the cases of domestic abuse that were reported, victims often dropped charges before the court appearance, or the case was settled out of court. The magistrates' courts dealt with physical abuse of women as with any other assault, but prosecutions were rare. NGOs conducted awareness campaigns on family violence during the year. The Family Support Center and a church-run facility for abused women provided counseling and other support services for women. The Family Support Center did not have an in-house lawyer and depended heavily on the Public Solicitor's Office for legal assistance for its clients.

Prostitution is illegal, but the statutes were not enforced. There is no law specifically against sex tourism, although such offenses could be prosecuted under laws against prostitution. There were no cases of sex tourism reported during the year.

Sexual harassment is not illegal and was a problem.

Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children. Contraception and adequate obstetric and postnatal care were accessible at all government hospitals and rural health clinics, and all nurses are trained to provide family planning services. Women and men had equal access to diagnosis and treatment of sexually transmitted infections.

The law accords women equal legal rights, including the right to own property. However, most women were limited to customary family roles, and this situation prevented women from taking more-active roles in economic and political life. A shortage of jobs also inhibited the entry of women into the work force. Women who were employed were predominantly engaged in low-paying and low-skilled jobs.

The Solomon Islands National Council of Women and other NGOs attempted to make women more aware of their legal rights, including voting rights, through seminars, workshops, and other activities. The government's Women's Development Division also addressed women's issues.

Children.—Citizenship is acquired both by birth in the country and through one's parents. Births frequently were not registered immediately due to lack of infrastructure, but the delays did not result in denial of public services to children.

During the year major foreign assistance continued to bolster the educational system, but education was not compulsory, and the high cost of school fees severely limited attendance at secondary and higher institutions. In January the government implemented a new education policy that abolished school fees up to the form three (high school) level. A sample survey released by the government in September found that since the implementation of the policy, primary school enrollment had increased 6 percent, and secondary school enrollment had increased 4.8 percent. According to a September article in the Solomon Star newspaper, the permanent sec-

retary for education stated that the government had allocated SB\$68 million (approximately \$9 million) for implementation of the new policy, including SB\$20 million (\$2.7 million) in foreign assistance.

The law grants children the same general rights and protections as adults, and there are laws designed to protect children from sexual abuse, child labor, and neglect, but few resources were provided to enforce the law. Child sexual and physical abuse remained significant problems, according to the coordinator of the Family Support Center in Honiara. However, children generally were respected and protected within the traditional extended family system, in accordance with a family's financial resources and access to services. Virtually no children were homeless or abandoned.

Both boys and girls may legally marry at age 15, and the law permits marriage at age 14 with parental and village consent, but marriage at such young ages did not appear to be common.

The minimum age for consensual sex is 15. The maximum penalty for sexual relations with a girl under age 13 is life imprisonment, and for sexual relations with a girl above age 12 but under age 15, it is five years' imprisonment. Consent is not a permissible defense under either of these provisions; however, in the latter case, reasonable belief that the victim was 15 or older is a permissible defense. Child pornography is illegal, with a maximum penalty of 10 years' imprisonment. However, there were reports of use of children in the production of pornography.

Trafficking in Persons.—The law prohibits trafficking in persons for labor or sexual exploitation. There were no confirmed reports that persons were trafficked to, from, through, or within the country, but there were anecdotal reports that young women were trafficked internally, and from China and several Southeast Asian countries, for the purpose of sexual exploitation on foreign ships and in logging camps.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—There is no law or national policy on persons with disabilities, and no legislation mandates access to buildings for such individuals. In practice very few buildings were accessible to persons with disabilities. Their protection and care were left to the extended family and NGOs. The country had one educational facility for children with disabilities, which was supported almost entirely by the ICRC. A disability center in Honiara assisted persons with disabilities in finding employment; however, with high unemployment countrywide and few jobs available in the formal sector, most persons with disabilities, particularly those in rural areas, did not find work outside of the family structure.

Persons with mental disabilities were cared for within the family structure; there were very limited government facilities for such persons. The Kilufi Hospital in Malaita operated a 10-bed ward for the treatment of psychiatric patients. A psychiatrist resident in Honiara ran a clinic at the National Referral Hospital.

The Ministry of Home Affairs is responsible for protecting the rights of persons with disabilities.

National/Racial/Ethnic Minorities.—The country comprises more than 27 islands with approximately 70 language groups. Many islanders see themselves first as members of a clan, next as inhabitants of their natal island, and only third as citizens of their nation. Tensions and resentment between the Guadalcanalese and the Malaitans on Guadalcanal culminated in violence beginning in 1998. The presence of RAMSI greatly reduced ethnic tension between the two groups, and the Peace and Reconciliation Ministry organized reconciliation ceremonies. However, underlying problems between the two groups remained, including issues related to jobs and land rights.

In November some Chinese-owned businesses in Honiara were looted after violence broke out following a soccer game between Malaitan and Guadalcanalese teams.

On April 1, the government publicly released the 2008 report of a commission of inquiry into the 2006 riots in Honiara, which largely targeted Chinese businesses. Contributing causes cited in the report included insufficient government delivery of essential services and development in Honiara's settlements and inadequate policing. The NGO Transparency Solomon Islands and opposition MPs asserted that the government had edited the report prior to its public release; the government stated it had released the commission's full findings and recommendations but acknowledged it had omitted some "sensitive materials."

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Sodomy is illegal, as are "indecent practices between persons of the same sex." The maximum penalty for the former is 14 years' imprisonment,

and for the latter, five years. However, there were no reports of prosecutions directed at lesbian, gay, bisexual, or transgender persons under these provisions during the year. There were no reports of violence or discrimination against persons on the basis of sexual orientation or gender identity.

Other Societal Violence or Discrimination.—There were an estimated 200 cases of HIV/AIDS in the country. There was societal stigma towards persons with HIV/AIDS, but there were no specific reports of disownment by families as reported in the past. In April the NGO Oxfam International funded media training to encourage journalists to report accurate information about HIV/AIDS to increase public understanding of the disease.

Section 7. Worker Rights

a. The Right of Association.—The constitution implicitly recognizes the right of workers to form or join unions, to choose their own representatives, to determine and pursue their own views and policies, and to engage in political activities. The courts have confirmed these rights, and workers exercised them in practice. Only an estimated 10 percent of the population participated in the formal sector of the economy. According to the chief of trade unions, approximately 55 percent of employees in the public sector and 25 percent of those in the private sector were organized.

The law protects workers against antiunion activity, and there were no areas where union activity was officially discouraged.

The law permits strikes in both the public and private sectors. Advance notice to the government is required for strikes to be legal. Private-sector disputes usually were referred quickly to the Trade Disputes Panel (TDP) for arbitration, either before or during a strike. In practice the small percentage of the work force in formal employment meant that employers had ample replacement workers if disputes were not resolved quickly. However, employees are protected from arbitrary dismissal or lockout while the TDP is deliberating.

In March workers at the Gold Ridge Mining Company, Limited called a strike, alleging unsafe work practices and work environment, in particular related to handling and disposal of cyanide at the site. The company stated that independent tests of cyanide levels did not support the workers' claims. Workers also charged that company management had engaged in intimidation, racial discrimination, physical assault, and unfair dismissals. In April, following a meeting between company and union officials, the strike action was cancelled pending TDP review of the workers' claims. The TDP subsequently ruled that the strikers' claims had no basis.

In August the Solomon Islands Public Employees Union (SIPEU) staged a strike after negotiations with the government over a backlog of employee claims broke down. The claims involved such benefits as a housing entitlement allowance and cost of living adjustment. Conciliators were appointed to settle the dispute, and a report was made to the TDP. The TDP dismissed all the claims except for a 12 percent increase in the cost of living allowance; the government paid 4.5 percent of this during the year, with the remaining 7 percent scheduled to be paid by the first pay period in January 2010.

Also in August, following the SIPEU strike, the government issued an official notice prohibiting strikes by civil servants in essential services. There were procedures in place designed to ensure these workers due process and protect their rights.

In 2008 Solomon Islands Telikom workers went on a two-week strike. A deed of settlement was signed by both parties, and the TDP forwarded it to the High Court for implementation during 2009.

The longstanding standoff between the Solomon Islands National Union of Workers and the Russell Islands Plantation Estate continued during the year, and estate workers remained on strike. At year's end the case was still pending with the courts. In March the government appointed a commission of inquiry to examine the situation, but the commission had not released a report by year's end.

b. The Right to Organize and Bargain Collectively.—The law provides for the right to organize and bargain collectively, and unions exercised these rights in practice. Wages and conditions of employment were determined by collective bargaining, usually at the level of individual firms. Disputes between labor and management that cannot be settled between the two sides are referred to the TDP for arbitration. The three-member TDP, composed of a chairman appointed by the judiciary, a labor representative, and a business representative, is independent and neutral.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The constitution prohibits forced or compulsory labor, except as part of a court sentence or order; however, there were

some unconfirmed reports of internal trafficking in young women for purposes of sexual exploitation.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law forbids labor by children under age 12, except light agricultural or domestic work performed in the company of parents, or other labor approved by the commissioner of labor. Children under age 15 are barred from work in industry or on ships, except aboard training ships for educational purposes; those under age 18 may not work underground in mines, or at night in any industry. The commissioner of labor is responsible for enforcing child labor laws, but few resources were devoted to investigating child labor cases. Given low wages and high unemployment, there was little incentive to employ child labor in the formal wage economy; however, there were reports of children working as cooks and performing other tasks in logging camps, where conditions often were poor. There also were reports of children working in subsistence agriculture and other family-run enterprises.

e. Acceptable Conditions of Work.—The commissioner of labor establishes the minimum wage in consultation with the Chamber of Commerce, Finance Ministry, Employers Commission, and Trade Workers Union. The minimum wage was SB\$3.50 (approximately \$0.46) per hour for all workers except those in the fishing and agricultural sectors, who received SB\$2.50 (approximately \$0.33). The legal minimum wage did not provide a decent standard of living for an urban family living entirely on the cash economy. However, most families were not dependent solely on wages for their livelihoods.

The law regulates premium pay, sick leave, the right to paid vacations, and other conditions of service. The standard workweek is 45 hours and is limited to six days per week. There are provisions for maternity leave and for premium pay for overtime and holiday work.

Both an active labor movement and an independent judiciary provided enforcement of labor laws in major state and private enterprises. The commissioner of labor, the public prosecutor, and police are responsible for enforcing labor laws; however, they usually reacted to complaints rather than routinely monitoring adherence to the law. The extent to which the law was enforced in smaller establishments and in the subsistence sector was unclear. Safety and health laws appeared to be adequate. The Safety at Work Act requires employers to provide a safe working environment and forbids retribution against an employee who seeks protection under labor regulations or removes himself from a hazardous job site. Laws on working conditions and safety standards apply equally to foreign workers and citizens.

THAILAND

Thailand is a constitutional monarchy with a population of more than 66 million. The king is revered and exerts strong informal influence. In the most recent election for the lower house of the parliament, held in December 2007, the People's Power Party, led by Samak Sundaravej, won a plurality. After Constitutional Court rulings that forced two prime ministers to step down in 2008, a government led by Abhisit Vejjajiva was inaugurated in December 2008. In March 2008 voters elected 76 senators for the upper house of the parliament. The election process for both legislative bodies was generally viewed as free and fair, but there were widespread allegations of vote buying. The continuing internal conflict in the southernmost provinces led the government to restrict some rights and delegate certain internal security powers to the armed forces. Civilian authorities generally maintained effective control of the security forces.

The government's respect for human rights remained unchanged from the previous year. Security forces continued at times to use excessive force against criminal suspects, and there were reports that police tortured, beat, and otherwise abused suspects, detainees, and prisoners, many of whom were held in overcrowded and unsanitary conditions. There were numerous dismissals, arrests, prosecutions, and convictions of security forces in response to this behavior; however, official impunity continued to be a serious problem. Police corruption was widespread. A separatist insurgency in the southern part of the country resulted in numerous human rights abuses, including killings, committed by ethnic Malay Muslim insurgents, Buddhist defense volunteers, and government security forces. The government maintained some limits on freedom of speech, of the press, and of assembly. Human rights workers, particularly those focusing on violence in the south, reported harassment and intimidation. Trafficking in persons remained a problem. Members of hill tribes without proper documentation continued to face restrictions on their movement,

could not own land, and were not protected by labor laws. Government enforcement of labor laws was ineffective.

Political unrest occurred in March and April in Pattaya and Bangkok, when opposition street protests led to the cancellation of an Asian summit in Pattaya and riots in Bangkok, with two civilians killed by antigovernment protesters. The government declared a state of emergency in the Pattaya area on April 11 and in Bangkok on April 12, and the military restored order in Bangkok on April 13-14.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no confirmed reports that the government or its agents committed any politically motivated killings; however, security forces occasionally used excessive and at times lethal force against criminal suspects and committed or were connected to extrajudicial, arbitrary, and unlawful killings, including killings by security force personnel acting in a private capacity. Government law enforcement bodies and courts took action in some cases, including suspected extrajudicial killings by police in Kalasin Province.

According to the Ministry of Interior's (MOI) Investigation and Legal Affairs Bureau, between January and November, 733 persons died in prison and 24 while in police custody. Authorities attributed most of the deaths to natural causes. Police killed 50 suspects during the arrest process.

By year's end no member of Task Force 39 had been charged in connection with the death of Imam Yapa Koseng while in army custody in March 2008. There were three lawsuits pending in the case: the potential criminal proceeding against the military suspects, under consideration by the National Counter-Corruption Commission (NCCC) since June 2008; the civil lawsuit filed by Yapa's family in March against the Ministry of Defense, Royal Thai Army (RTA), and Royal Thai Police (RTP) that was put on hold pending the resolution of a jurisdictional problem; and a criminal lawsuit filed on August 20 by the family against the alleged perpetrators.

There were no developments in the 2007 death of Nopphon Chaiwichit in Nakhon Si Thammarat Province. At year's end the Crime Suppression Police Division in Bangkok continued its investigation.

At year's end the case of the 2007 shooting by Preecha Panpayap, a MOI security official, in Mae Hong Son Province that killed Karenni refugee Aie Oo had not reached the prosecution or trial stage. On January 27, authorities forwarded the matter to the provincial police, which established an investigatory committee but made no determination. The governor of Mae Hong Son brought the case to the Office of the Attorney General (OAG) in June 2008. In November the OAG decided that it would not prosecute Preecha for deliberate homicide.

The Department of Special Investigation's (DSI) Special Case Center accepted for investigation 10 cases suspected of being related to the 2003 "War on Drugs" campaign for investigation, although the killings occurred after 2003. The DSI forwarded eight of the cases to the OAG and one to the NCCC, and it continued to investigate one case. The DSI issued warrants for six police officers in Kalasin Province in relation to the killing of Kiattisak Thitboonkhong and the subsequent cover-up. In August the DSI submitted a brief to the state prosecutor; on September 9, the prosecutor filed criminal charges, including a charge of abuse of power for the three commissioned officers involved.

In October several police officers and civilians exhausted their appeals in relation to the kidnapping and murder of the wife and son of jeweler Santi Sithanakhon during the investigation of the Saudi Arabian palace jewel theft in 1994. The Supreme Court upheld the death sentence of former police commissioner Chalo Koetthet for masterminding the scheme. Similarly, it upheld the life sentences received by one police officer and two civilians. As for the remaining defendants, another officer and a civilian died in prison, the last two civilians received minor sentences, and a final officer was acquitted.

According to the Thailand Mine Action Center, during the year there were 10 injuries due to landmines, occurring in Buriram, Kanchanaburi, Sakaew, Sisaket, and Trat provinces. The government continued significant public awareness campaigns, including sending landmine awareness teams to the affected villages and landmine education teams to local schools to inform students about the risk and prevention of landmine injury.

There were at least four violent incidents between Thai border rangers and Cambodian illegal loggers during the year. For example, on September 11, border rangers shot at a group of Cambodians illegally logging on the Thai side of the border in Surin Province. One Cambodian was killed and another wounded in the incident. On November 27, border rangers allegedly shot and killed one individual among a

group of seven Cambodian illegal loggers in Kap Cheung District, also in Surin Province.

b. Disappearance.—There were no reports of politically motivated disappearances. There were no confirmed reports that individuals disappeared after being questioned by security officials in the southern provinces.

On December 11 in Narathiwat Province, relatives reported that Abduloh Abukaree disappeared after failing to return home from a nearby tea shop. He was a key witness in a DSI case against high-ranking police officials, connected to the disappearance of Somchai Neelaphaijit (see below).

There were no developments in the February 2008 case of Kamol Laosophaphant, a businessman in Khon Kaen Province who disappeared after going to a police station to lodge criminal complaints against local officials concerning state railway land deals. However, the DSI accepted it as a special case and was investigating it.

Utsaman Awaenu, a navy draftee stationed in Sattahip, Chonburi Province, who disappeared in February 2008, was located in mid-2008 by his family with the assistance of the Muslim Attorney Center and the Cross Cultural Foundation.

There were no developments in the 2007 abduction of Anukorn Waithanomsak, an assistant to a leader of the United Front for Democracy Against Dictatorship (UDD).

On March 19, a civil court declared Muslim attorney and human rights activist Somchai Neelaphaijit legally missing, five years after his disappearance. In January his wife, Angkhana Neelaphaijit, met with Prime Minister (PM) Abhisit, who subsequently pressured the DSI to pursue any remaining leads in the case. The DSI conducted several searches and declared there was no new evidence. In March the DSI stated that Police Major Ngern Thongsuk, convicted in 2007 of coercion for his role in forcing Somchai into a car, was living in a neighboring country and had not died in a September 2008 mudslide in Kanchanaburi Province as previously claimed. On March 11, Deputy PM Suthep Thaugsuban stated that those involved in Somchai's abduction would be prosecuted; however, at year's end no additional individuals had been charged. Somchai's disappearance in 2004 was thought to be connected to his legal representation of criminal suspects who allegedly had been tortured by high-ranking police officials. At year's end that case was before the NCCC, and one of the key witnesses, Abduloh Abukaree, disappeared on December 11, before he was able to testify.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution specifically prohibits such practices, but there is no law that specifically prohibits torture, and it is not punishable as an offense under criminal law. Nongovernmental organizations (NGOs) and legal entities continued to report that members of the police and military occasionally tortured and beat suspects to obtain confessions. There were newspaper reports of numerous cases in which citizens accused police and other security officials of using brutality. At year's end no military personnel had been charged or prosecuted; however, there were criminal actions against RTP officers.

RTP Captain Nat Chonnithiwat and seven other police officers in the 41st Border Patrol Police unit were convicted by two separate Bangkok courts on charges of assault, illegal detention, extortion, and receiving bribes. Many of the victims were beaten, subjected to electric shock, and had plastic bags placed over their heads to force them to confess. Others were forced to pay bribes of cash and jewelry to have charges reduced against them. At least 61 individuals filed complaints against these officers; in July they were sentenced to three years in prison, and in December they were sentenced to an additional five years.

The RTP continued its investigation of the January 2008 alleged torture of university students Ismael Tae and Amisi Manak by Yala's Task Force 11 and soldiers from a camp in Pattani. The relatives of the victims also filed a civil suit against the RTA, which was pending at year's end.

The case of Rayu Korkor, arrested in March 2008 by members of Task Force 39 along with Imam Yapa Koseng and four other men, continued under NCCC investigation. Rayu alleged that he witnessed Yapa's death at the hands of Task Force 39 officials (see section 1.a.) and that he was tortured. The RTP forwarded the case to the NCCC, and Rayu's relatives also filed a civil lawsuit against the RTA that was pending at year's end.

Prison and Detention Center Conditions.—Prison conditions were poor. Prisons and detention centers were overcrowded. There were approximately 200,000 prisoners in prisons and detention facilities designed to hold 100,000. Sleeping accommodations were insufficient, medical care was inadequate, and communicable diseases were widespread in some prisons. Seriously ill prisoners at times were transferred to provincial or state hospitals.

Prison authorities sometimes used solitary confinement of not more than one month, as permitted by law, to punish male prisoners who consistently violated prison rules or regulations, although the Department of Corrections maintained that the average confinement was approximately seven days. Authorities also used heavy leg irons to control prisoners who were deemed escape risks or harmful to other prisoners.

Approximately 14 percent of the prison population consisted of pretrial detainees, who were not segregated from the general prison population. Men, women, and children often were held together in police station cells pending indictment. Separate facilities for juvenile offenders were available in all provinces. In rare instances juveniles were detained with adults.

Conditions in immigration detention centers (IDCs) remained poor. The Immigration Police Bureau, reporting to the Office of the Prime Minister, administered IDCs, which were not subject to many of the regulations that governed the regular prison system. There were reports that guards physically abused detainees in some IDCs. Overcrowding and a lack of basic medical care continued to be serious problems. There were also complaints of inadequate and culturally inappropriate food, especially by Muslim detainees.

International observers reported continued overcrowded conditions for detainees in Bangkok's Suan Phlu IDC. Observers alleged that detainees were abused while in detention. There were reports that detainees, including children, were not permitted to exercise at some facilities.

Access to prisons was not restricted, and the government permitted visits by independent human rights observers and the International Committee of the Red Cross (ICRC). ICRC representatives were allowed to meet prisoners without third parties present and made repeated visits. However, at year's end the military had not approved ICRC requests to visit military detention facilities in the four southernmost provinces, where detainees allegedly were mistreated. Authorities also continued to deny the UN High Commissioner for Refugees (UNHCR) access to detainees at the Suvarnabhumi Airport IDC in Bangkok. UNHCR officials were able to interview detainees in Suan Phlu IDC, and access for third countries to process recognized refugees for resettlement continued.

d. Arbitrary Arrest or Detention.—The constitution specifically prohibits arbitrary arrest and detention; however, government forces occasionally arrested and detained persons arbitrarily. Martial law, which gives the military authority to detain persons without charge for a maximum of seven days, remained in force in 31 of the country's 76 provinces.

The Lawyers' Council of Thailand (LCT) received 115 complaints during the year from residents of the southern provinces about security force operations, including improper searches and arrests made by citing the emergency decree and presenting warrants afterwards.

Role of the Police and Security Apparatus.—The RTP has the authority to minimize threats to internal security and suppress criminal activity. It is under the direct supervision of the prime minister and a 20-member police commission. The police commissioner general is appointed by the prime minister and subject to cabinet and royal approval. The Border Patrol Police has special authority and responsibility in border areas to combat insurgent or separatist movements.

The February 2008 implementation of the Internal Security Act (ISA) created the Internal Security Operations Command (ISOC) as a state agency under the command of the prime minister, who acts as the ISOC director. The act includes broad powers for the military. Military and civilian personnel make up the ISOC staff; ISOC is intended to function as a national security force to suppress unrest. The ISA was invoked in July for the Association of Southeast Asian Nations (ASEAN) Regional Forum in Phuket and repeatedly in the fall for UDD rallies. Human rights organizations and academics criticized the government for repeatedly utilizing the ISA, with approval of the cabinet, to respond to alleged threats to national security by restricting fundamental rights. However, invocation of the ISA did not prevent peaceful assembly of protesters.

Corruption remained widespread among members of the police force. There were numerous incidents of police charged with sexual harassment, theft, and malfeasance. There were reports that police tortured, beat, and otherwise abused detainees and prisoners, generally with impunity. Police officers were arrested for drug trafficking, reportedly involved with intellectual property rights violations, and convicted on extortion charges.

In certain regions and situations where the military plays a security role, soldiers were arrested and charged with drug trafficking and arms trafficking. In July the

RTA dismissed 38 noncommissioned officers for fraud and extortion for demanding money for rank and duty promotions.

There were press reports that former police chief Patcharawat Wongsuwan interfered in the investigation of the April attempted killing of People's Alliance for Democracy leader Sondhi Limthongkul. In July arrest warrants were issued for two soldiers and a police officer. In October the NCCC charged Patcharawat with malfeasance for his handling of the violent crackdown on the October 2008 political protesters, leading PM Abhisit to transfer him. The case was forwarded to the OAG but then moved to a joint NCCC-OAG committee in November; at year's end it had not been resolved.

Complaints of police abuse can be filed directly with the superior of the accused police officer, the Office of the Inspector General, or the police commissioner general. The National Human Rights Commission (NHRC), LCT, NCCC, Court of Justice, Ministry of Justice (MOJ), and Office of the Prime Minister also accept complaints of police abuse and corruption, as does the Office of the Ombudsman. At year's end there were 22 petitions pending with the LCT seeking assistance to pursue abuse of power cases against the police.

When the police department receives a complaint, an internal investigation committee first takes up the matter and may temporarily suspend the officer during the investigation. Various administrative penalties exist, and serious cases can be referred to a criminal court. The NHRC received approximately 95 complaints of police abuse between October 2008 and the end of the year.

Procedures for investigating suspicious deaths, including deaths occurring in police custody, require that a prosecutor, forensic pathologist, and local administrator participate in the investigation and that in most cases family members have legal representation at the inquests. However, these procedures often were not followed. Families rarely took advantage of a provision in the law that allows them to bring personal lawsuits against police officers for criminal action during arrests.

Arrest Procedures and Treatment While in Detention.—With few exceptions, the law requires police to obtain a warrant from a judge prior to making an arrest. In practice the system for issuing arrest warrants was subject to misuse by police officers and a tendency by the courts automatically to approve all requests for warrants. By law persons must be informed of likely charges against them immediately after arrest and must be allowed to inform someone of their arrest. The law provides for access to counsel for criminal detainees; however, lawyers and human rights groups claimed that police often conducted interrogations without providing access to an attorney. Lawyers working in the southern provinces reported that under the emergency decree they were denied adequate access to detained clients, and some individuals in the southern provinces reported they were denied permission to visit detained family members. Foreign detainees sometimes were pressured to sign confessions without the benefit of a competent translator. The MOJ and OAG sought to provide an attorney to indigent detainees at public expense.

Under normal conditions the law allows police to detain criminal suspects for 48 hours after arrest for investigation. Court permission is required to extend detentions for additional periods (up to a maximum of 84 days for the most serious offenses) to conduct investigations. Lawyers reported that police rarely brought cases to court within the 48-hour period. Laws and regulations place offenses for which the maximum penalty is less than three years under the jurisdiction of the district courts, which have different procedures. In these cases police are required to submit cases to public prosecutors within 72 hours of arrest. According to the LCT, pretrial detention of criminal suspects for up to 60 days was common.

The law provides defendants the right to bail, and the government generally respected this right. However, some human rights groups reported that police frequently either did not inform detained suspects of their right to bail or refused to recommend bail after a request was submitted. There were several instances of denial of bail in lese majeste cases; both Boonyuen Prasertying and Suwicha Thakhor were denied bail for three months between their arrests and guilty pleas. In July 2008 police arrested activist Daranee Charnchoengsilpakul (also known as Da Torpedo) on lese majeste charges following speeches at UDD rallies. The court refused her bail on several occasions, and she remained in detention for more than a year before she was sentenced on August 28.

Under martial law the military has the authority to detain persons without charge for a maximum of seven days.

Amnesty.—Early in the year, authorities completed the release of 31,149 prisoners pardoned by the king as part of a royal amnesty marking his 80th birthday in 2007.

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary. Although the judiciary generally was regarded as independent, it was subject

to corruption and outside influences. According to human rights groups, the lack of progress in several high-profile cases involving alleged abuse by the police and military diminished the public's trust in the justice system and discouraged some victims of human rights abuses (or their families) from seeking justice.

The civilian judicial system has three levels of courts: courts of first instance, courts of appeal, and the Supreme Court of Justice. In addition there is a Constitutional Court, charged with interpreting the constitution, and the Administrative Court, which adjudicates cases involving government officials or state agencies. Justices nominated to the Supreme Administrative Court are confirmed by the Senate after being recruited by a judicial commission consisting of 10 judges and three officials appointed by the Senate and the cabinet. Other judges are career civil servants whose appointments are not subject to parliamentary review.

A separate military court hears criminal and civil cases pertaining to military personnel as well as those brought during periods of martial law. Islamic (Shari'a) courts hear only civil cases concerning family and inheritance matters between Muslim parties in Yala, Pattani, Narathiwat, and Satun provinces.

Trial Procedures.—There is no trial by jury. A single judge decides trials for misdemeanors; two or more judges are required for more serious cases. The constitution provides for a prompt trial, although a large backlog of cases remained in the court system. While most trials are public, the court may order a closed trial, particularly in cases involving national security, the royal family, children, or sexual abuse. NGOs criticized the closure of the trial of political activist Daranee Charnchoengsilpakul in June, which resulted in an 18-year sentence. Her attorneys appealed the constitutionality of the trial closure; in December the Constitutional Court declined to accept the petition, reasoning that her conviction could be overturned by either the appeals court or the Supreme Court.

The law provides for the presumption of innocence. In ordinary criminal courts, defendants enjoy a broad range of legal rights, including access to a lawyer of their choosing. A government program sought to provide free legal advice to the poor, but indigent defendants were not automatically provided with counsel at public expense. The MOJ and the OAG remained committed to providing legal aid in both civil and criminal cases but did not allocate sufficient resources. The LCT budget was reduced by more than 25 percent in the year. The legal aid provided was often done on a pro bono, ad hoc basis, and it was of a low standard. Some NGOs reported that legal aid lawyers pressured their clients into paying additional fees directly to them. The court is required to appoint an attorney in cases where the defendant disputes the charges, is indigent, or is a minor, as well as in cases where the possible punishment is more than five years' imprisonment or death. Most free legal aid came from private groups, including the LCT and the Thai Women Lawyers Association. There is no discovery process; consequently, lawyers and defendants do not have access to evidence prior to the trial. The law provides for access to courts or administrative bodies to seek redress, and the government generally respected this right.

Several NGOs expressed concern over the lack of adequate protection for witnesses, particularly in cases involving alleged police wrongdoing. The MOJ's Office of Witness Protection had limited resources and primarily played a coordinating role. In most cases witness protection was provided by the police, but six other state agencies participated in the program. Witnesses, lawyers, and activists involved in cases of alleged police abuse reported that protection was inadequate and that they were intimidated by the police sent to provide protection.

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

Civil Judicial Procedures and Remedies.—There is an independent and impartial judiciary in civil matters. The law provides for access to courts and administrative bodies to bring lawsuits seeking damages for, or cessation of, a human rights violation, and the government generally respected this right. However, sections 16 and 17 of the emergency decree, which was in force in the three southern border provinces, expressly exclude scrutiny by the Administrative Court or civil or criminal proceedings against government officials, although victims may seek compensation from a government agency instead.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution specifically prohibits such actions, and the government generally respected these prohibitions in practice. However, martial law gives military forces the authority to conduct searches without a warrant, and this authority was used on some occasions. In addition, the emergency decree covering the southern provinces also allows authorities to make searches and arrests without warrants. The LCT received multiple complaints from persons in the south claiming that security

forces abused this authority, but the decree provides security forces broad immunity from prosecution.

Security services monitored persons, including foreign visitors, who espoused extremist or highly controversial views.

In contrast with 2008, there were no reports that police conducted warrantless searches in the northern provinces or that members of indigenous hill tribes were subjected to forced evictions and relocations.

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

The internal conflict in the ethnic Malay, Muslim-majority, southernmost provinces (Narathiwat, Pattani, Yala, and portions of Songkhla) continued throughout the year. Insurgents carried out almost daily bombings and attacks that caused deaths and injuries. The emergency decree in effect in this area gives military, police, and civilian authorities significant powers to restrict certain basic rights and delegated certain internal security powers to the armed forces. The decree also provides security forces broad immunity from prosecution. The 2006 martial law, which also remained in effect in the provinces of Narathiwat, Pattani, and Yala, gives a wide range of power to security forces.

Killings.—Human rights groups accused government forces of extrajudicial killings, arbitrary arrests, and torture of individuals suspected of involvement with separatists. As a result of a series of attacks by suspected insurgents, tension between the local ethnic Malay Muslim and ethnic Thai Buddhist communities continued to grow, alongside a distrust of security officials.

On March 12, suspected insurgents shot prominent human rights activist Laila Paaitae Daoh in Krongpenang, Yala. Laila, who died from her injuries the next day, was the fourth family member to be killed for advocating a peaceful solution to the southern problem. Laila's husband and second son were killed in 2006, and her eldest son was shot and killed in 2004.

On June 8, gunmen opened fire inside the Al Furqon mosque in Narathiwat, killing 10 and injuring 12. Police issued an arrest warrant for a former paramilitary member, Sutthirak Kongsuwan, who was related to a Buddhist villager killed the day before in the neighboring district. Police later issued a second warrant for the alleged getaway driver. Insurgents killed a pregnant Buddhist schoolteacher in the same district earlier that week.

On June 12, gunmen shot two Buddhist monks in Yala while they collected morning alms, killing one and seriously wounding the other.

In February the OAG decided not to pursue criminal charges against any officials involved in the 2004 Krue Se massacre, ending the inquest started in 2007.

On May 29, the Songkhla Provincial Court announced its verdict on the inquest into the deaths of 78 ethnic Malay Muslim detainees at Tak Bai in 2004. The court determined that officers were performing their duty and were not responsible based on the immunity granted them through provisions in the emergency decree.

According to statistics from the MOI's National Emergency Coordinating Center, during the year separatist violence resulted in the deaths of 510 individuals and the injury of 995 more in 935 incidents. The center also reported that at least 389 civilians were killed and 614 injured, 78 government officials were killed and 379 injured, and 43 insurgents were killed and one injured. As in previous years, the separatists frequently targeted government and religious representatives, including teachers, monks, and district and municipal officials, as well as Buddhist and Muslim civilians.

Some government-backed civilian defense volunteers, most of them ethnic Thai Buddhists from villages in the south, continued to receive basic training and weapons from the MOI and security forces. Human rights organizations expressed concerns about vigilantism against ethnic Malay Muslims by these defense volunteers and other civilians, suggesting they may have been involved in the June 8 mosque attack.

Police continued investigating the February 2007 attacks in Narathiwat, Pattani, Yala, and Songkhla that killed nine persons and injured approximately 70. Arrest warrants were issued for 13 suspects for the Narathiwat attacks; of those, two were arrested and were on trial at year's end. Two suspects were arrested and prosecuted for the attacks in Yala and were sentenced to life imprisonment. Authorities issued 15 arrest warrants for the March 2007 ambush of a van in Yala that killed eight Buddhist passengers. Five of the 15 suspects were killed during clashes with authorities at other locations, and four were arrested.

No arrests were made for the March 2007 attacks on ethnic Malay Muslims in which three were killed and 20 injured in Yala. There were no developments in the investigation of the April 2007 killings of four ethnic Malay Muslim youths in Yala, allegedly by village defense volunteers.

Police identified five suspects in the May 2007 killing of seven soldiers in Narathiwat, but the public prosecutor dismissed the cases. No other suspects were arrested in the incident. A police investigation continued in the May 2007 explosions in Hat Yai City in Songkhla; eight arrest warrants were issued, but no arrests were made. Police arrested three suspects in the May 2007 bombing of Saba Yoi District market in Songkhla; at year's end the three were being tried.

There were no developments in the investigation of the September 2007 killing of Imam Wae-asae Madeng in Narathiwat and the October 2007 killing of Imam Asae Dengsa, also in Narathiwat. There was no progress in the investigation of the November 2007 incident in which suspected insurgents reportedly killed a Muslim man for cooperating with security officials.

Physical Abuse, Punishment, and Torture.—Civil society groups accused the army of torturing some suspected militants at detention facilities.

The government continued to arrest suspected militants, some of them juveniles, and in some cases held them for a month or more under provisions of the emergency decree and martial law. Human rights organizations considered the arrests arbitrary, excessive, and needlessly lengthy, and they expressed concerns about detention facility overcrowding.

The three southernmost provinces are covered by two security laws. Martial law allows for detention without charge up to seven days without court or government agency approval in Pattani, Narathiwat, and Yala. The emergency decree, in effect in the same areas, allows authorities to arrest and detain suspects for up to 30 days without charge. After the expiration of this period, authorities can begin holding suspects under normal criminal law. Unlike under martial law, these detentions require the consent of a court of law, although human rights NGOs complained that courts did not always exercise their right to review these detentions. In some cases a suspect was held first under martial law for seven days and then detained for an additional 30 days under the emergency decree. In December the ISA was imposed in lieu of martial law and the emergency decree in the four districts of Songkhla. The Southern Border Province Police Command stated that 447 persons had been arrested during the year under the emergency decree, with 12 killed during arrest or related skirmishes. It was unclear whether any persons were detained under the auspices of martial law alone.

Child Soldiers.—There were no reports of persons under the age of 18 conscripted or recruited into governmental armed forces. There were reports that separatist groups recruited teenagers under the age of 18 to carry out attacks. Human rights organizations alleged that separatists used private Islamic schools to indoctrinate ethnic Muslim Malay children with a separatist agenda.

Other Conflict-Related Abuses

Human rights organizations alleged that the military mailed official letters to village headmen or local district officers in the four southernmost provinces, inviting them to nominate a specific number of “voluntary villagers” to attend a workshop. Credible sources indicated that villagers who attended these trainings were subject to interrogations and collection of biological data (fingerprints, DNA samples, and photographs).

The Ministry of Education (MOE) reported that since 2004 insurgents had burned more than 283 schools in the south, and burned 35 of them more than once. During the year insurgents burned 14 schools in Yala, Pattani, and Narathiwat and at least two that had been burned previously. The government periodically closed schools throughout the region in response to attacks against teachers, students, educational facilities, and parents. The government frequently armed ethnic Thai Buddhist and ethnic Malay Muslim civilians, fortified schools and temples, and provided military escorts to monks and teachers. According to the MOE, 152 teachers, students, and education staff had been killed and 261 others injured due to separatist violence since 2004. During the year 22 students were injured and one was killed; 18 school personnel were injured, and 13 were killed.

Separatist violence included attacks on medical facilities. According to the Ministry of Public Health (MPH), 73 public health volunteers had been killed, 49 health volunteers injured, and 24 community health centers burned or bombed in the south since 2004.

While official government statistics were not available, there were reports that more than 30 percent of ethnic Thai Buddhists were fleeing violence-affected areas to other provinces in the country.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution and law specifically provide for freedom of speech and of the press with some exceptions, although the government limited these rights during the year.

Freedom of speech and of the press occasionally were curtailed by government interference and the use of provisions authorized under the emergency decree. Attempts by the government to hamper freedom of expression on the Internet increased. Television and radio broadcasters also were monitored closely, and pressure was exerted on broadcast media to cooperate on disseminating constructive and “balanced” news, particularly during the civil unrest in April. Nevertheless, the media and civil society vocally criticized government authorities throughout the year. Print, broadcast, and online media covered news critical of the government and senior-level officials and carried interviews with and statements from fugitive former PM Thaksin Shinawatra.

By law the government may restrict freedom of speech and of the press to preserve national security, maintain public order, preserve the rights of others, protect public morals, and prevent insults to Buddhism. The law allows police under a court order to restrict or confiscate publications and other materials for disturbing the peace, interfering with public safety, or offending public morals.

The international and independent media were allowed to operate freely, except in coverage of matters deemed a threat to national security or offensive to the monarchy.

By issuing an emergency decree, the government can restrict print and broadcast media. The decree empowers the government “to prohibit publication and distribution of news and information that may cause the people to panic or with an intention to distort information.” Under an emergency decree, the government is authorized to censor news considered a threat to national security. These powers were employed during the period of political unrest in April.

Lese majeste provisions in the criminal code make it a criminal offense punishable by up to 15 years’ imprisonment to criticize the king, queen, royal heir apparent, or regent. The provisions allow private citizens to initiate lese majeste complaints against each other, and there were several cases in which private citizens did so. During a December 14 speech, PM Abhisit announced the establishment of a panel to scrutinize the enforcement of the lese majeste provisions because of concerns they had been used as a political tool.

On August 28, a court sentenced political activist Daranee Charnchoengsilpakul to 18 years in prison on three counts of lese majeste. The charges stemmed from statements she made in public during a series of antigovernment rallies in Bangkok in June and July 2008. At year’s end her case was before the appeals court.

The April 2008 case against social activists Chotisak Ongsoong and Songkran Pongbunjan, who were charged with lese majeste for not standing for the royal anthem in a movie theater in 2007, remained pending at year’s end.

Two separate lese majeste cases filed in 2008 against journalist Jonathan Head, former BBC Bangkok bureau chief, remained pending at the end of the year. The charges originated from remarks Head made in 2007 at panel events at the Foreign Correspondents’ Club of Thailand (FCCT), as well as a claim that his reporting over a two-year period “damaged and insulted the reputation of the monarchy.” Jakrapob Penkair, a political activist, also faced lese majeste charges in connection with the 2007 FCCT panel discussion. Jakrapob fled the country in April after calling for armed rebellion. On June 30, charges were filed by a private citizen against the 13-member FCCT board based on claims that the FCCT had violated lese majeste laws by selling video copies of the 2007 panel discussion with Jakrapob.

On January 19, a court sentenced foreign author Harry Nicolaides to three years in prison on lese majeste charges for a passage in his 2005 novel *Verisimilitude* that allegedly defamed the crown prince. Nicolaides received a royal pardon from King Bhumibol on February 18 and left the country on February 21.

The November 2008 lese majeste case against social critic Sulak Sivaraksa remained pending. He was free on bail and awaiting further official action.

There was no government ownership or control of print media. Political figures, prominent families, and large media conglomerates held ownership of large stakes in many leading newspapers.

Government entities owned and controlled all radio and broadcast television stations, including the 524 officially registered “regular” AM and FM stations. The military and police also owned another 244 radio stations, ostensibly for national security purposes. Other owners of national broadcast media included the government’s Public Relations Department and the Mass Communication Organization of Thailand (MCOT), a former state enterprise of which the government owned a majority share. Nearly all stations were leased to commercial companies.

The 2008 Broadcasting Act governs the regulation of radio and television frequencies. The act provides for three categories of broadcast licenses: public service, community service, and commercial. The act empowers the National Telecommunications Commission (NTC) to enforce the law, pending the establishment of the Na-

tional Broadcasting and Telecommunications Commission (NBTC), the body tasked with reallocating all broadcast frequencies and regulating broadcast media. Despite assurances from the government that appointing the NBTC would be done quickly, no progress was made on the appointment of the regulatory body by the end of the year.

Under past legislation, radio stations had to renew their licenses every year. The 2008 act increases radio license terms to seven years. Radio signals were broadcast via government transmitters. Stations were required by law to broadcast 30-minute, government-produced newscasts twice daily. New regulations governing community radio operations took effect in July. Community radio operators were granted a 30-day period to register for temporary 300-day trial operating licenses with the NTC. According to the government, more than 4,500 community radio operators registered between July 24 and August 24. The government warned community radio operators who failed to register with the NTC by the August 24 deadline that they would be considered illegal if they continued to operate and could be charged with unlicensed use of transmitters and radio frequencies. There were no reports of government action against unlicensed operators.

There were reports that journalists were subject to harassment, intimidation, and violence due to their reporting, particularly during the period of political unrest in April. Local television stations came under heavy criticism from UDD members for what they claimed was one-sided coverage of events, and UDD protesters reportedly attacked local television crews during demonstrations in Bangkok on April 12-14.

On April 13, groups of UDD protesters attempted to disrupt broadcasting at local branches of state-run National Broadcasting of Thailand and Radio Thailand in three provinces, accusing the stations of biased reporting on the crackdown against fellow UDD members in Bangkok.

The case of Samraeng Khamsanit, a reporter whose car was set on fire in January 2008, as well as the shooting cases of Matichon reporters Surayud Yongchaiyudh and Atiwat Chainurat in May and August 2008, respectively, remained under investigation at the end of the year. All three were believed to have been targeted for their politically sensitive reporting.

Print media criticism of political parties, public figures, and the government was common. Journalists generally were free to comment on government activities and institutions without fear of official reprisal; however, they occasionally practiced self-censorship, particularly with regard to the monarchy and national security. Broadcast media was subject to government censorship both directly and indirectly, and self-censorship was evident. Nevertheless, broadcast media reported criticism of the government.

On April 13, acting under authority of the April 12 emergency decree, the government ordered satellite operator Thaicom to terminate the signal of D-Station, the satellite television outlet operated by the UDD. Days later, police raided D-Station operations in Bangkok and seized a number of broadcast devices. D-Station resumed broadcasting in May.

ISOC provincial branches reportedly called on community radio operators not to use their networks to incite unrest and warned operators that they would be shut down if they did not comply. Ostensibly acting under authority of the April 12 emergency decree, at least three community radio stations in the north and northeast reportedly were ordered closed temporarily following claims that they were using the airwaves to incite chaos.

The community radio station belonging to the Duang Prathip Foundation remained closed after the May 2008 warrantless raid on its office. The radio staff member who was arrested and prosecuted was fined approximately 1,500 baht (\$45).

Radio talk-show host Chom Phetpradab took his program off the air on the state-run MCOT a day after he was heavily criticized by the government for broadcasting an interview with former PM Thaksin on September 6. Chom was said to have made the decision after Prime Minister's Office Minister Sathit Wongnongtaey called for an investigation into statements about the Privy Council that Thaksin made during the interview.

Defamation is a criminal offense, punishable by a fine of up to 200,000 baht (approximately \$6,000) and two years' imprisonment. Criminal courts made several rulings on defamation and libel cases against media figures, political activists, and politicians.

On March 25, a criminal court handed down several rulings on defamation lawsuits filed in 2006 by Thaksin while he was prime minister regarding allegations made at a seminar. The court found Pramote Nakonthap and Manager Media columnist Khunthong Roseriwant guilty of criminal defamation for printing and distributing an article on the seminar. They were sentenced to one year in prison and a fine of 100,000 baht (\$3,000). The court separately acquitted Manager Group

owner Sondhi Limthongkul and Asia Satellite TV (ASTV) commentator Chirmsak Pinthong, who had also participated in the seminar, reasoning that they had acted in good faith.

On March 31, a criminal court sentenced political activist Chanaphat na Nakhon to three months in prison, later reduced to two months, for remarks made in 2007 defaming former foreign minister Noppadon Pattama.

On September 10, a criminal court found Sondhi Limthongkul guilty of defamation for statements made against a former deputy prime minister during a weekly show presented on ASTV in 2007. Sondhi was sentenced to two years in prison without probation. He was released on bail the same day and stated he would appeal the conviction.

The defamation cases of two popular television talk-show hosts remained under appeal at the end of the year.

There were no reports that the government used libel laws to suppress criticism of political or other leaders.

The government continued to prohibit the import and sale of *The King Never Smiles*, written by Paul Handley and published overseas, and *A Quarter-Century on Democracy's Thorny Path*, written by Sulak Sivaraksa. Sale of Giles Ungpakorn's book *A Coup for the Rich* also continued to be prohibited.

On five separate occasions, the local distributor of *The Economist* opted not to deliver the weekly magazine to subscribers. The January 24, January 31, April 18, July 4, and September 19 editions were not made available, allegedly due to concerns over references about the monarchy.

Internet Freedom.—Individuals and groups generally could engage in the peaceful expression of views via the Internet, including by e-mail; however, there were some limitations. There were some government restrictions on access to the Internet and reports that the government monitored Internet chat rooms. Internet access was available and used by citizens in urban and rural areas, with an estimated penetration of 24 percent.

The 2007 Computer Crime Act (CCA), which created new computer crime offenses, establishes procedures for the search and seizure of computers and computer data in certain criminal investigations and gives the Ministry of Information and Communication Technology (MICT) authority to request and enforce the suspension of information disseminated via computer. Under the act a court order is required to ban a Web site; however, this was not always applied in practice. A maximum five-year prison sentence and a 100,000 baht (approximately \$3,000) fine can be imposed for posting false content on the Internet that undermines public security, causes public panic, or hurts others. A maximum 20-year sentence and 300,000 baht (\$9,000) fine can be imposed if an offense results in the death of an individual. It also obliges Internet service providers (ISPs) to preserve all user records for 90 days, in the event that officials wish to access them. In addition, any service provider who gives consent to or intentionally supports the publishing of illegal content is also liable. Media activists criticized the law, stating that the offenses were defined too broadly and some penalties were too harsh.

There was an increase in Internet censorship, and the CCA was used to stifle freedom of expression. The government closely monitored and blocked numerous Web sites that expressed pro-Thaksin or republican views and those that were critical of the monarchy, particularly during the period of political unrest in April and during the weeks leading up to the king's birthday in December; however, most were accessible again by the end of the year. The government allowed relative freedom of expression on political Web sites and discussion boards, except where matters of the monarchy and national security were concerned. Many political Web boards and discussion forums chose to self-censor and closely monitored discussions to avoid being blocked.

On January 5, the MICT announced that it had blocked more than 2,300 sites for posting content deemed offensive to the monarchy. By September it announced that it had blocked almost 9,000: 6,218 for "national security" concerns, 2,307 because of pornography, and 430 related to gambling. The MICT also announced that it had allocated 80 million baht (approximately \$2.4 million) to support increased Web site monitoring. According to press reports, on January 29, Justice Minister Piripan Salirathavibhaga declared to the parliament that the ministry had established various panels to monitor and censor Web sites posting antimonarchy content. The MICT also set up a hotline for tips and complaints from the public about offending Web sites.

On January 26, a young woman was arrested under provisions in the CCA after posting second-hand comments deemed offensive to the monarchy on her personal blog site and Prachathai.com, a popular online news Web site. On March 6, Prachathai.com executive director Chiranuch Premchaiporn was arrested and

charged with violating article 15 of the CCA for allowing comments to be posted that were considered offensive to the monarchy. At year's end both individuals were free on bail and awaiting a decision from the attorney general on whether their cases would be prosecuted.

On April 3, Suwicha Thakhor was sentenced to 10 years in prison under lese majeste provisions of the CCA. He was arrested in January after police traced photographs considered offensive to the monarchy posted to the Internet from his home computer. Media reports indicated that he originally was sentenced to 20 years in prison but that the sentence was reduced to 10 years after he pled guilty.

Acting under authority of the April 12 emergency decree, the MICT advised ISPs to block more than 60 pro-Thaksin Web sites that it alleged had posted content that could incite chaos. The order was rescinded on April 24 following the lifting of the emergency decree, and all Web sites reportedly were accessible shortly thereafter.

On November 1, police arrested two persons, Thiranan Vipuchanan and Katha Pajajiriyapong, for allegedly violating the CCA by spreading false information on the Internet about the king's medical condition, thus endangering national security. Two additional individuals, Somchet Ittiworakul and Thassaporn Rattawongsa, were arrested on November 3 and November 18, respectively, on charges of disseminating inaccurate information that threatened national security for posting comments about the king's health on various Web sites. All four were released on bail and at year's end were awaiting the results of a police investigation.

Academic Freedom and Cultural Events.—There were no government restrictions on academic freedom.

Cultural events may be censored, usually for reasons of public decency. Under the 2008 Film Act, the state is authorized to ban the release of movies that “offend the monarchy, threaten national security, hamper national unity, insult faiths, disrespect honorable figures, challenge morals, or contain explicit sex scenes.” Section 25 of the act stipulates that all films to be screened, rented, exchanged, or sold in the country must be screened and approved by the Film and Video Classification Committee. According to the Ministry of Culture, 17 films were banned from release during the year, including the films *Frontiere*, *Halloween*, and *Funny Games*. The ministry reportedly banned the controversial documentary *This Area Under Quarantine* from screening at the World Film Festival in Bangkok for explicit sexual content and nudity. Theater owners and broadcasters frequently censored films themselves before submitting them to the board. As part of the act, a new seven-tiered rating system was introduced in August. Movie theaters also had to apply for operation licenses by September or face up to one million baht (approximately \$30,000) in fines. There were no reports that fines were levied or any other restrictions acted upon by the end of the year.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The constitution provides for freedom of assembly, and the government generally respected this right with some exceptions. Martial law, which gives the military authority to restrict freedom of assembly, was in effect in 31 provinces. The emergency decree for the southern provinces allows the government to limit freedom of assembly, but this provision was not used during the year.

The provinces of Surat Thani, Phuket, and Phang Nga have provisions that prohibited migrant workers—specifically those from Cambodia, Burma, and Laos—from forming gatherings, among other restrictions, while Samut Sakhon Province prohibited gatherings of more than five persons. The provisions were not strictly enforced. Employers and NGOs could request permission from authorities for migrant workers to hold cultural gatherings and were often not required to do so if the gatherings were on private property.

Throughout the year the UDD network staged protests in Bangkok and other areas. The demonstrations drew thousands of participants and peaked with the protests in Bangkok and Pattaya in March and April. The protests began in late March with a virtual siege of Government House and turned violent on April 7, when protesters attacked PM Abhisit's motorcade in Pattaya. On April 11, after protesters broke into the meeting site for a meeting of Asian leaders, the government canceled the summit, and foreign leaders were evacuated by helicopter. The government declared a state of emergency in Pattaya on April 11 and in the Bangkok area on April 12.

On April 12, UDD protesters stormed the MOI in Bangkok, where PM Abhisit was in meetings, and attacked his motorcade again as he tried to leave the compound. Street fighting involving the protesters, security forces, and other groups began on April 13, and at least 135 persons were injured, according to the MPH, including four soldiers wounded by gunshot, and other injuries related to tear gas inhalation, bone fractures, and shrapnel wounds. Two local residents were killed

when attacked by UDD demonstrators. On April 14, hundreds of soldiers surrounded the UDD stronghold at Government House, and the protest leaders called an end to the protests and asked their members to disperse.

Freedom of Association.—The constitution specifically provides for freedom of association, although exceptions are made “to protect public interests, to maintain public peace and order or good morals, or to prevent economic monopoly.”

The law prohibits the registration of parties with the same name or emblem as that of a dissolved political party. Legal experts maintained that the law was designed to inhibit the reregistration of the Thai Rak Thai political party, which the Constitutional Court dissolved in 2007.

c. Freedom of Religion.—The constitution provides for freedom of religion, and the government generally respected this right in practice; however, it restricted the activities of some groups. The constitution specifically provides for freedom of religion, provided that the religion is not contrary to a person’s “civic duties, public order, or good morals.”

The constitution requires that the monarch be a Buddhist, but it does not designate a state religion. Some Buddhist organizations called for the designation of Buddhism as the state religion, but the effort failed. The constitution requires the government “to patronize and protect Buddhism and other religions.” The government subsidized activities of the three largest religious communities—Buddhist, Muslim, and Christian.

Under the Religious Organizations Act, a new religion can be registered if a national census shows that it has at least 5,000 adherents, represents a recognizably unique theology, and is not politically active. A religious organization must also be accepted into one of the five officially recognized ecclesiastical groups: Buddhist, Muslim, Christian (which includes Catholicism and four Protestant subgroups), Brahmin-Hindu, and Sikh. Since 1984 the government has not recognized any new religious groups. Government registration confers some benefits, including access to state subsidies, tax-exempt status, and preferential allocation of resident visas for organization officials. Unregistered religious organizations did not receive these benefits but operated freely in practice.

The 1962 Sangha Act specifically prohibits the defamation or insult of Buddhism and the sangha (Buddhist clergy). The penal code prohibits the insult or disturbance of religious places or services of all recognized religions in the country. Followers of the Santi Asoke sect of Buddhism were unable legally to refer to themselves as Buddhists because of theological disagreements with the Sangha Council, but they were able to practice their faith without restriction.

Religious instruction is required in public schools at both the primary and secondary education levels. The MOE has formulated a course that contains information about all recognized religions in the country.

In the past pondok (traditional Islamic) schools were not required to register with the government and had no government oversight or funding. Following the outbreak of violence in the southern provinces in 2004, registration with the government was made mandatory. By year’s end the government had registered 401 pondok schools in Songkhla, Yala, Pattani, and Narathiwat provinces and eight pondok schools in other provinces. Observers estimated that as many as 1,000 pondok schools operated in the south.

Government officials reportedly continued to monitor Falun Gong members. The Falun Gong complained that officials attempted to limit their activism due to fear of damaging bilateral relations with the People’s Republic of China. On April 9, three mainland Chinese members of Falun Gong were arrested on immigration-related charges after a raid on their home in Pattaya, one day prior to the ASEAN summit there. The detainees were transferred to Bangkok’s IDC on April 26. At year’s end two of the three remained in the IDC, and the third was resettled to a third country. There was at least one other mainland Chinese Falun Gong member, arrested in 2008, who continued to be detained.

The police monitored a Falun Gong peaceful demonstration in July and their booths at two local medical festivals during the summer but did not interfere with their activities.

Societal Abuses and Discrimination.—Violence committed by suspected separatist militants in Narathiwat, Pattani, Songkhla, and Yala affected the ability of some ethnic Thai Buddhists in this predominantly ethnic Malay Muslim region to undertake the full range of their traditional religious practices. Buddhist monks and temples were targeted. A number of monks reported that they were unable to travel freely through southern communities. Monks also claimed that, due to fear of being targeted by militants, laypersons sometimes declined to assist them in their daily activities. After the June 12 shooting of two Buddhist monks in Yala Province, the

Supreme Sangha Council ordered the monks in the deep south to stop morning alms collection due to safety concerns, and the approximately 1,000 monks in the area were provided with subsistence expenses in the interim.

As a result of a series of attacks, tension between the local ethnic Malay Muslim and ethnic Thai Buddhist communities in the south continued to grow. However, there were no outbreaks of communal violence between the Buddhist and Muslim communities. Many Muslims in the south complained of societal discrimination both by Buddhist citizens and the central government. Muslims also complained that Thai-language newspapers presented a negative image of Muslims and their communities, associating them with terrorists.

Insurgent groups in the south spread propaganda against Buddhists in the form of threatening pamphlets and flyers. There were allegations that some religious school teachers in the south preached hatred for Buddhists as well as for Muslims who cooperated with the government and security forces.

Muslims, who represent between 5 and 10 percent of the population nationwide and constitute the majority in four of the five southernmost provinces, experienced some economic discrimination, according to local NGOs. The government attempted to address the problem by maintaining longstanding policies designed to integrate Muslim communities into society through developmental efforts and expanded educational opportunities. However, these efforts were often resisted amid charges of forced assimilation.

The Jewish community is small, and there were no reports of anti-Semitic incidents.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution provides for freedom of movement within the country, foreign travel, and emigration. The government generally respected these rights in practice, with some exceptions for “maintaining the security of the state, public peace and order or public welfare, town and country planning, or youth welfare.” The government generally cooperated with humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, asylum seekers, stateless persons, and other persons of concern, although with many restrictions.

Members of hill tribe minorities who were not citizens were issued identity cards that reflected restrictions on their freedom of movement. Holders of such cards were prohibited from traveling outside their home district without prior permission from the district head and needed permission from the provincial governor to travel outside their home province. Offenders were subject to fines and jail terms. Persons without a card could not travel at all. Human rights organizations reported that police at inland checkpoints often asked for bribes in exchange for allowing stateless persons to move from one district to another.

Refugees generally were not granted freedom of movement in the country, although permission to move frequently was granted for humanitarian purposes. If caught outside one of the official camps, a refugee is subject to fines, detention, and deportation.

Other long-time noncitizen residents, including many thousands of ethnic Shan and other nonhill tribe minorities, were required to seek permission from local authorities or the army for foreign and domestic travel.

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

Protection of Refugees.—The country is not a signatory to the 1951 Convention relating to the Status of Refugees or its 1967 protocol, and the law does not provide for granting asylum or refugee status. Nevertheless, authorities continued the country’s longstanding practice of hosting significant numbers of refugees. In practice the government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

IDCs in several provinces and Bangkok were designated to hold asylum seekers resident outside the official refugee camps, who are considered illegal migrants by law. Conditions in many IDCs were poor, with mental and physical health problems among the asylum seekers, often stemming from overcrowding and poor ventilation. Refugees are unable to work legally in the country. Burmese refugees in the official camps are formally prohibited from working or earning a livelihood outside the camps, although the government allowed expansion of a pilot program permitting a small group of refugees to work outside as part of a vocational training program.

The government continued to offer illegal migrants the opportunity to register and work legally, although only in certain sectors of the economy. On May 26, the gov-

ernment approved a plan to open a new round of registration for unregistered migrant laborers. The registration process covers illegal migrants from Laos, Cambodia, and Burma who arrived after 2004 and are employed in five sectors: fishing, fisheries-related work, construction, farming and livestock, and domestic work. Work permit registration must be renewed each year. Unregistered migrants in these economic sectors must apply for identification cards (that will act as work permits) and complete a citizenship verification process. At the end of the year, the government announced plans to extend for two years the original February 2010 deadline for citizenship verification. Migrants from Laos and Cambodia may complete their citizenship verification at locations throughout Thailand. Burmese migrants must travel to processing centers along both sides of the Thai-Burmese border due to Burmese government insistence that registration take place within Burma. Civil society observers have criticized this procedure due to perceived increased vulnerability to exploitation of the migrant workers.

On September 16, three major workers' rights and labor organizations submitted a complaint to the UN special rapporteur on the human rights of migrants, requesting an investigation into the new nationality verification process for Burmese migrants due to concerns about the safety of the Burmese migrant communities. On October 5, the same organizations sent a complaint letter (with recommendations) to the prime minister, leading the government to modify aspects of the program.

According to information compiled by the International Organization for Migration, 1,325,057 work permits were either issued or extended (renewed) from January to November, 1,077,981 of which were for persons from Burma. In November the cabinet announced that migrant children of registered migrants are entitled to register for residential permits if their parents have residential permits as well.

Provincial Admissions Boards (PABs), the government's screening process for Burmese seeking asylum in one of the country's nine official refugee camps, were reactivated on a pilot basis in four camps following a four-year hiatus. The government planned to expand the screening process to all nine camps. While the government generally cooperated with humanitarian organizations in assisting refugees in official camps, cooperation with the UNHCR on protection for certain groups remained uneven, as authorities detained large numbers of Hmong, North Korean, and Burmese Rohingya asylum seekers and refugees. The UNHCR was formally forbidden to conduct refugee status determinations or provide its protection mandate to these groups, as well as to Burmese outside the official camps. The UNHCR continued to have informal access to asylum seekers in the main IDC in Bangkok to conduct status interviews, and several resettlement countries were allowed to conduct processing activities there as well. NGOs were able to provide health and nutritional support. The government permitted UNHCR monitoring at the facility, where many new arrivals were held.

The government continued to allow the UNHCR to monitor the conditions of the approximately 140,000 Burmese refugees living in nine camps along the Burmese border but prohibited the UNHCR from maintaining a permanent presence in the border camps. NGOs provided basic needs assistance in the camps. Authorities permitted the UNHCR to provide identification cards to registered refugees living in the camps.

The government continued to facilitate third-country resettlement of camp refugees, and at year's end 16,685 Burmese were resettled from the camps. The government was willing to assist in safe, voluntary returns of refugees to their homes.

The government allowed NGOs to provide food, education, health care, housing, and other services to Burmese who may have had valid refugee claims but who resided outside the camps. Government officials periodically arrested Burmese outside designated camps as illegal aliens. Those arrested generally were taken to the border and released without being turned over to Burmese authorities. Many returned to Thailand shortly thereafter.

The government convened a special "fast track" PAB screening process for certain persons affected by the 2007 crackdown on prodemocracy protesters in Burma. The special PAB approved 98 persons for refugee status and allowed their third-country resettlement.

Many Burmese asylum seekers encountered by army border units continued to be returned to Burma before they could reach the established refugee camps. However, thousands of other asylum seekers were able to enter the country and gain entry into the refugee camps during the year. Several thousand ethnic Karen who fled fighting in Burma in June were permitted to remain on the Thai side of the border, although they did not enter the camps. The government worked with NGOs and the UNHCR to provide humanitarian assistance. International organizations reported that on July 2, 19 newly arrived Karen refugees who entered a refugee camp on

or about June 20 were deported to an area of Burma outside central government control.

According to the UNHCR, there were approximately 50,000 unregistered Burmese asylum seekers in the nine camps. During the year, the newly reactivated PABs registered approximately 5,000 of them.

On December 28, the government forcibly returned 4,351 Hmong to Laos, some possibly with valid refugee claims, from an army-run camp in Huay Nam Khao, Phetchabun Province. The government did not grant the UNHCR permission to interview Huay Nam Khao detainees to determine their refugee status. During the year approximately 1,200 additional Hmong were returned to Laos in six separate movements. Many appeared to return voluntarily, although there was no independent third-party monitoring of the returns. In addition to these, at least 15 detainees were arrested for violation of camp rules and given the choice of jail or return to Laos; all opted for the latter. Transgressions included protesting, selling lottery tickets, and using cell phones. An internal government screening system reportedly existed to identify detainees who might face harm if returned to Laos; however, the government gave few details. An NGO provided food, water, sanitation, and basic health care in the camp.

On December 28, the government also forcibly deported to Laos 158 UNHCR-recognized Hmong refugees, including 87 children. Immediately prior to deportation, the resettlement countries were allowed access to the group for the first time to begin processing. The group had been detained in small cells in the Nong Khai IDC since 2006. Several countries sought to consider the group detained at Nong Khai for refugee resettlement, but authorities did not permit resettlement processing to be completed.

From late 2008 until January, local civil defense officials, apparently acting without sanction from the central government, enacted a “pushback” policy aimed at Rohingya migrants transiting the country. Several hundred Rohingya traveling by boat were intercepted, detained briefly, and towed back out to sea where they were released with limited supplies of food and water. Deaths were later reported among the groups. The pushback policy was soon rescinded after international attention. A subsequent group of 78 migrants were placed in indefinite detention in January. The UNHCR was granted access to them only on one brief occasion to attempt to determine their origin; the group appeared to include both Rohingya and Bangladeshis. The government did not permit refugee status determinations. In July two young men among the Rohingya asylum seekers died of illness while in custody. In August the 76 men and boys were moved from the Ranong IDC to the Suan Phlu IDC in Bangkok.

The government allowed ethnic Karenni Paduang refugees to depart the country for resettlement abroad.

Stateless Persons.—A significant but indeterminate number of stateless persons resided in the country, many of whom are known as highlanders or members of hill tribes, and were concentrated in the northern region. Others migrated from Burma but are not ethnic Burmese and do not have Burmese citizenship. Still others fall into neither of those categories.

The 2005 National Strategy on Redressing the Problem of Personal Status and Rights referenced 360,000 migrant members of hill tribes granted temporary residence due to significant duration of time in country, 60,000 stateless children in educational institutions, and 17,606 undocumented highlanders eligible for citizenship upon proof they are indigenous to Thailand, as well as an unspecified number of additional stateless individuals. According to this data, the number of stateless individuals was approximately 437,000.

Citizenship is not automatically conferred by birth occurring within the country. By law citizenship is either based on birth to one or more Thai parents, marriage to a Thai male, or naturalization. It can also be acquired by means of special government-designated criteria implemented by the MOI. Finally, it can be granted as a result of the 2008 Nationality law (see also Children in section 6). There were significant obstacles to establishing citizenship, including insufficient documentary evidence for stateless hill tribe people to prove their eligibility, incomplete and contradictory census data, language barriers, and a complex appeals process. The labyrinth of citizenship-related laws and regulations and the existence of substantial gray areas within and among them often led to their uneven application as well as extortion by corrupt local officials.

Academics also reported that local officials effectively prevented highlanders from exercising their rights as citizens by removing their names from household registration lists. This prevented citizens from obtaining certain jobs, accessing health care, conducting financial transactions, and registering their children.

The 2008 Nationality Act provides citizenship eligibility to certain categories of previously ineligible highlanders, streamlining citizenship registration and easing evidentiary requirements. An NGO estimated that 100,000 persons could benefit from the legislation.

The 2008 Civil Registration Act stipulates that every child born in the country will receive an official birth certificate, regardless of the parents' legal status. Some stateless persons born in the country who may have been able to prove citizenship eligibility often waived that right in order to classify themselves as "migrants," thereby gaining access to public health care and certain jobs unavailable to stateless persons. In doing so, these individuals lost any claim for citizenship eligibility that they previously held. The Nationality Act allows these individuals to reclaim their eligibility provided they relinquish migrant worker status and take certain steps, such as surrendering work permits.

Implementation of the Civil Registration Act was not uniform, often depending on local authorities' knowledge, ability, and willingness to follow the law. While many stateless persons, including refugees, were issued official birth certificates, others were unable to obtain the documentation to which they are entitled.

The 2005 cabinet-approved national strategy permits individuals who lack legal status and entered the country before January 1995 to remain in the country temporarily and apply for legal status, including citizenship. However, at year's end some implementing regulations were still under development.

Stateless highland women encountered more barriers to citizenship than men. Tribal customs and traditions subjected women to a social status that limited their access to postprimary education and political opportunities that would have contributed to knowledge of the citizenship process. Many stateless highland women had few economic opportunities outside the home and therefore could not afford the bribes sometimes demanded for processing citizenship applications. Highlanders claimed to have paid district officials 3,000 to 49,000 baht (approximately \$90 to \$1,470), although there is no official processing cost for citizenship. NGOs reported that some local officials pressed women into offering sexual favors in exchange for accelerating their citizenship registration.

Many stateless highlanders lived in poverty. As noncitizens they could not vote, own land, or travel outside their home district or province without prior permission. Stateless persons also had difficulty accessing credit, obtaining official recognition of educational qualifications, and accessing government services, such as health care. The law also prohibits stateless persons from participating in certain occupations reserved for citizens, most notably farming, although in practice officials permitted noncitizen highlanders to undertake subsistence agriculture. Without legal status, stateless persons were also subject to arrest, deportation, extortion, and other forms of abuse. The UN Educational, Social, and Scientific Organization (UNESCO) asserted that lack of legal status was the single greatest risk factor for trafficking or other exploitation of highlanders, such as by being forced into the drug trade or other sectors of the underground economy, as a result of being precluded from many legitimate economic opportunities.

Although a 2005 cabinet resolution declared that every child in the country, regardless of legal status, was entitled to free primary education (nine years of schooling, to age 15 or completion of middle school), in practice the government did not always respect this right. Human rights organizations reported that local officials often excluded undocumented children from primary school. According to UNESCO's 2006 Highland Peoples Survey of 12,000 hill tribe households in the north, highlanders lacking citizenship were 73 percent less likely to enter primary school than those with citizenship, and 98 percent less likely to progress to higher education. Moreover, human rights organizations reported that stateless students who completed primary school often did not receive an official graduation certificate, which hindered their access to higher education and restricted their employment options. In August the MOE reported that of the estimated 260,000 stateless children in the country, only 60,000 were enrolled in the public education system. Those remaining were either not in school or studied at unofficial learning centers.

Any stateless person wishing to travel outside the country requires an exit permit. During the year the Ministry of Foreign Affairs issued exit permits to stateless persons to study abroad. Other long-time noncitizen residents, including many thousands of ethnic Shan and other nonhill tribe minorities, were required to seek permission from local authorities or the army for foreign and domestic travel.

Mong Thongdee, a 12-year-old boy born to ethnic Shan Burmese migrant workers, initially faced difficulties obtaining travel documents to participate in an international paper airplane competition in Japan, representing Thailand as its national champion. After significant media attention, PM Abhisit intervened, and in September Mong traveled to Japan to compete in the tournament.

Naruay Taterng, the 14-year-old daughter of hill tribe highlanders, won 100,000 baht (approximately \$3,000) and a trip to China as third prize in a contest to name a new baby panda at the Chiang Mai zoo. As a stateless person, she originally was prohibited from traveling to Bangkok to claim the cash prize and to China for the trip. Although her parents, who come from a remote village in the far north, are eligible for citizenship, they were unable to register her at birth with the local district office. As a result, she did not have a national identification card and could not demonstrate citizenship to obtain travel documents. Eventually she was allowed to travel to Bangkok on September 10 to claim her prize. She received her Thai citizenship shortly after returning from Bangkok in September. Her parents had been pursuing citizenship for her for some time, and the media attention led to her case being expedited.

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

Following the 2007 general election, the country reverted to a bicameral system, composed of the House of Representatives and the Senate. The constitution provides citizens the right to change their government peacefully through periodic, free, and fair elections based on universal, compulsory suffrage. The constitution provides for the election of all members of the 480-seat House of Representatives and 76 members of the 150-seat Senate. It also provides for the appointment of 74 additional members of the Senate by members of the judiciary and other regulatory bodies.

Elections and Political Participation.—A national election for the House of Representatives held in 2007 generally was considered free and fair; however, there were allegations of widespread vote buying, minor procedural irregularities, and scattered but unconfirmed reports of intimidation by local military and government officials. International observers stated that the martial law in effect in parts of the country during the election was inconsistent with international norms.

During the year eight by-elections in 33 districts of 26 provinces were held. The Election Commission of Thailand (ECT) reported 62 complaints of election fraud related to campaign promises or vote buying. There were no injuries or killings during the by-elections, but during a Puea Thai party campaign event in Sakon Nakhon on April 20, a bomb exploded near the site where party politicians were making speeches. No suspect was identified or arrested.

In the parliament all 150 allotted slots for senators were filled. Of the 480 allotted slots for the House of Representatives, seven were not filled, mostly due to the party dissolutions in December 2008, as well as a death, a resignation, and a disqualification. However, in September the ECT disqualified 16 representatives for unconstitutional stock holdings that created conflicts of interest. They remained in office pending final rulings from the Constitutional Court. This followed the disqualification of 17 senators and 13 representatives for similar offenses in June. Of the latter group, only one senator and one representative left office at that time and were replaced; the remaining 28 remained in office. The Supreme Court's Election Division dismissed the ECT disqualification for election irregularity of another senator in April, and the Constitutional Court dismissed another ECT disqualification for unconstitutional representation in March. Both senators were reinstated.

Political parties could operate without restriction or outside interference, although violations of election laws by three members of political parties' executive boards prompted the Constitutional Court in December 2008 to dissolve three of the eight parties holding seats in the legislature, including two of the three largest. The sanction of party dissolution is provided for by the constitution, which also provides that all executive board members of parties dissolved by the court lose their political rights for a five-year period. A total of 106 executive board members lost their political rights in connection with the parties' dissolution. During the year the ECT dissolved 29 parties for inability to maintain compliance with the election law, and one party requested to be dissolved.

There were 87 women in the 630-seat bicameral parliament. Female senators chaired five of the 22 standing committees, and none in the lower house. Women held four cabinet positions. The constitution encourages political parties to consider a "close proximity of equal numbers" of both genders. Women had the right to vote and run for positions, but many NGOs noted that there were relatively few elected female officials.

Few members of ethnic minorities held positions of authority in national politics. Muslims from the south held significant elected positions, although they continued to be underrepresented in appointed local and provincial government positions. There were 30 Muslim and six Christian members of the parliament.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, although government implementation of the law was weak, and officials sometimes engaged in corrupt practices with impunity.

The case arising from the March 2008 prosecution of former PM Thaksin in connection with embezzling proceeds from a government lottery was decided in September. Thaksin and 43 other defendants were acquitted and two former ministers, and one former official received two year suspended sentences (later reduced to one year of probation.) Thaksin's absence led the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions (SCCDP) to suspend the case on the Asset Examination Committee (AEC) charges against him over the Export-Import Bank of Thailand's loan to Burma of four billion baht (\$120 million) and to issue a warrant for his arrest. The SCCDP was examining the 76 billion baht (\$2.28 billion) asset confiscation case against Thaksin, and the first hearing took place in July. Thaksin's wife, her brother, and her secretary, sentenced in July 2008 to prison terms ranging from two to three years for tax evasion, were free on bail, awaiting the result of their appeal.

In May the NCCC found two former senior Anti-Money Laundering Office (AMLO) administrators guilty of abuse of power while they held their positions in 2001-02, and the OAG was considering the case. They illegally ordered financial status examinations of approximately 200 reporters, NGO employees, and opposition politicians who were critical of Thaksin.

In May the minister of finance fired Finance Permanent Secretary Suppharat Khawatkun after the NCCC found him guilty of malfeasance for his illegal appointments of four deputy directors general in the Revenue Department in 2000.

The OAG determined that the investigation arising from the 2007 arrest of RTP Colonel Chanchai Netirattakan in connection with the alleged bribery of two Constitutional Court judges did not yield sufficient evidence for prosecution. The case was returned to the RTP for affirmation in January and closed in May.

In June the Civil Servants' Pension Fund Board of the Ministry of Finance fired its secretary general, Wisit Tantisunthorn, for malfeasance after the ministry and Office of Anti-Corruption in State Agencies found him guilty of insider trading.

On September 21, the SCCDP acquitted 44 cabinet ministers and high-ranking government officials from the Thaksin administration, including then deputy prime minister for economic affairs Somkhit Chatusiphitak, accused of corruption in a 2003 rubber sapling scandal case.

During the year the NCCC and OAG continued to investigate allegations of corruption committed by the Thaksin government. The findings by the AEC and OAG triggered multiple cases at the SCCDP. The NCCC brought several other cases to court and reported that there were 6,407 cases pending investigation. During the year 2,779 cases were received, of which 1,964 were completed; 206 of those cases required further action, including disciplinary actions, impeachments, and referrals to the courts, the OAG, or a joint NCCC-OAG committee.

At year's end the OAG was considering the AEC indictments of seven prominent former government ministers and high-ranking officials on charges of malfeasance related to the 2007 purchase of fire trucks.

Public officials were subject to financial disclosure laws. Aside from the NCCC, AEC, and OAG, other entities playing a role in combating corruption included the AMLO, Supreme Court, Ombudsman's Office, Administrative Court, and MOJ.

The constitution provides access to public information, and there were no reports that government agencies denied citizens' requests for information. If a government agency denies such a request, a petition may be made to the Official Information Commission, and petitioners may appeal the commission's preliminary ruling to an appellate panel. According to the commission, the vast majority of petitions were approved. There were 344 petitions received and 134 appeals during the year. Requests for public information may be denied for reasons of national security and public safety.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights organizations generally operated without government restriction, investigating and publishing their findings on human rights cases. However, NGOs that dealt with sensitive political matters, such as opposition to government-sponsored development projects, faced periodic harassment. Human rights workers focusing on the violence in the southern provinces were particularly vulnerable to harassment and intimidation by government agents and militant groups.

Very few NGOs were accorded tax-exempt status, which sometimes hampered the ability of domestic human rights organizations to secure adequate funding. On March 24, after considerable delay, the government renewed registration of the Bangkok office of the International Commission of Jurists for the period from April 2008 to April 2010.

On February 8, a combined military and police unit raided the Pattani office of the Working Group on Justice for Peace, a local NGO run by Angkhana Neelaphajit, the wife of disappeared human rights attorney Somchai Neelaphajit. Security personnel searched computer files and photographed documents and staff. The commanding officer cited martial law to justify the warrantless search. On March 30, four soldiers returned to question staff and gather information about the organizations' employees and programs and to request data.

In April and July, two environmentalists and community leaders in Petchaburi Province were shot, presumably in connection with their activism related to protection of community forests. Both were seriously injured, and the suspect arrested for the July shooting of Kittinarong Koetrot was under trial at year's end. Police had not identified any suspects in the April shooting of Phongthep Hongthong.

In September the RTP visited the offices of at least 12 exile Burmese groups on several "immigration raids." The groups targeted included those of the Human Rights Education Institute of Burma and the Burmese Women's Union. Ten women from the union were detained but later released, and as a result of these raids many offices remained closed for several weeks. It remained a concern for several groups.

During the year the Muslim Attorney Center reported that local authorities harassed its staff and the family members of its attorneys, specifically through warrantless searches of their homes, allegedly seeking southern militant suspects.

On June 25, new NHRC commissioners assumed office, after a February Administrative Court ruling dismissed the previous panel. The prior panel members had remained in office almost two years after their term expired. Numerous NGOs and human rights groups criticized the selections and the selection process, pointing out that one of the new commissioners was named in a 2007 NHRC investigation regarding his responsibility for environmental damage. There was complaint to the NHRC in August against his appointment that demanded his impeachment. The NHRC ruled in October that this was the jurisdiction of the parliament and the petition should be directed there. There was at least one active NHRC subcommittee, the International Covenant on Civil and Political Rights subcommission, which addressed matters such as the situation of the Lao Hmong refugees. In September the NHRC called on the government to avoid invoking the ISA during the scheduled UDD protests. The NHRC received 716 cases during the year, but modest staffing and resources hampered progress.

The parliament had two committees that addressed human rights problems: the House Standing Committee on Legal Affairs, Justice, and Human Rights; and the Senate Standing Committee on Human Rights, Rights and Liberties, and Consumer Protection. The Senate committee was more active and submitted reports to the general session, the cabinet, and the prime minister, including one that contained recommendations regarding RTP actions related to the October 2008 demonstrations by People's Alliance for Democracy followers. Human rights advocates generally believed the committees were well intended but lacked the enforcement capability required to be truly effective. They also were described as reactive, difficult to access, and hampered by the political affiliations of their chairmen.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution provides for equal treatment without respect to race, gender, religion, disability, language, or social status; however, in practice some discrimination existed, and government enforcement of equal protection statutes was uneven.

Women.—Rape is illegal, although the government did not always enforce the law effectively. The criminal code permits authorities to prosecute spousal rape. Between January and November, the police stated that 4,273 rape cases had been reported and that there were 12 additional cases in which the victim was killed. Suspects were arrested in 2,366 of the former category of cases and in eight of the cases that resulted in the victim's death. The MPH reported that an estimated 10,206 women and children were sexually abused between October 2008 and December, including 1,938 women more than 18 years old and 8,268 children.

NGOs believed that rape was a serious problem in the country. According to academics and women's rights activists, rapes and domestic assaults were underreported, in part because state agencies tasked with addressing the problem were not adequately funded and law enforcement agencies were perceived to be incapable of bringing perpetrators to justice. Police sought to change this perception and encouraged women to report sexual crimes through the use of female police officers

in metropolitan Bangkok and in three other provinces. There were 143 female police officers for sexual abuse cases nationwide.

The law specifies a range of penalties for rape or forcible sexual assault, depending on the age of the victim, degree of assault, and physical and mental condition of the victim after the assault; penalties range from four years' imprisonment to life as well as fines. The law also provides that any individual convicted twice for the same criminal rape offense in three years is liable to increased penalties for recidivism. The amount of the penalty depends on such factors as the severity of the injury or the death of the victim and generally varies from 30,000 baht (approximately \$900) to 150,000 baht (\$4,500).

Domestic violence against women was a significant problem. The Protection of Victims of Domestic Violence Act imposes a fine of up to 6,000 baht (\$180) or up to six months' imprisonment for violators and provides authorities, with court approval, the power to prohibit offenders from remaining in their homes or contacting family members during trial. The law implements measures designed to facilitate the reporting of domestic violence complaints and reconciliation between the victim and the perpetrator. Additionally, the law restricts the media's reporting on domestic violence cases in the judicial system.

Some domestic violence crimes were prosecuted under provisions for assault or violence against a person. Domestic violence frequently went unreported, and police often were reluctant to pursue reports of domestic violence. NGO-supported programs included emergency hotlines, temporary shelters, and counseling services to increase awareness of domestic violence, HIV/AIDS, and other matters involving women. The government's crisis centers, located in some state-run hospitals, cared for abused women and children, although several centers faced budget difficulties. State-run hospitals referred victims to external organizations when services at a hospital were not available. The crisis centers reported that they had received 23,499 reports of domestic violence between October 2008 and September.

During the year the Ministry of Social Development and Human Security (MSDHS) expanded a community-based system to protect women from domestic violence to four additional communities in the central, north, northeastern, and southern regions, after the original program in Bangkok. Representatives from each community received training in increasing awareness of women's rights and abuse prevention.

Prostitution is illegal, although it was practiced openly throughout the country. Local officials with commercial interests in prostitution often protected the practice. Trafficking in women and children for prostitution was a serious problem, despite strong government efforts to combat it. The illegal nature of the work and the high incidence of part-time prostitution made precise numbers difficult to assess, and estimates varied widely. A government survey during the year found that there were 73,917 adult prostitutes in registered entertainment establishments. However, some NGOs believed there were approximately 300,000 prostitutes.

There were reports that women were forced into prostitution in border areas, but the number of such cases was difficult to determine. NGOs and government agencies provided shelter, rehabilitation, and reintegration programs for children and women involved in the sex industry.

Sex tourism was a problem. According to the MSDHS, there were no laws that specifically addressed sex tourism. Rather, the criminal code, laws on prostitution, and laws combating trafficking in persons contain provisions designed to combat sex tourism.

Sexual harassment is illegal in both the public and private sectors. The law for public sector employees specifies fines of not more than 20,000 baht (approximately \$600) for individuals convicted of sexually harassment. Private sector employees must file criminal charges if they have a sexual harassment claim. The punishment depends on the degree of harassment and age of the victim. Abuse categorized as an indecent act may result in imprisonment of up to 15 years and a fine of up to 30,000 baht (\$900). The Civil Servant Regulations Act prohibits sexual harassment and stipulates five levels of punishment: probation, docked salary, salary decrease, discharge from service, and termination. NGOs claimed that the legal definition of harassment was vague and prosecution of harassment claims difficult. The Civil Service Commission's sexual harassment and bullying hotline was shifted to the supervision of the Bureau of Disciplinary Standards during the year. During the time of transition and regulation drafting, they did not accept complaints. Most of the prior complaints were dismissed, as the petitions were unsigned, and the remainder were forwarded to the relevant agencies for internal investigations.

In September a female naval lieutenant, with the assistance of former senator Rabiabrat Pongpanich, filed petitions regarding her sexual harassment by a senior army general with various parliamentary entities, the prime minister, the NHRC,

and the MSDHS. The general was her superior at the Royal Thai Armed Forces Headquarters. Rabiabrat used the opportunity to appeal for more effective and punitive antisexual harassment legislation. Headquarters officials set up a six-member committee to investigate the case.

Couples and individuals could decide the number, spacing, and timing of children, and they had the information and means to do so free from discrimination. The publicly funded medical system provided access to contraceptive services and information, prenatal care, skilled attendance during childbirth, and essential obstetric and postpartum care. Women had equal access to diagnosis and treatment for sexually transmitted infections, including HIV. However, some NGOs claimed that Muslims and teenagers did not have adequate access to such services. In addition, the number of female Muslim doctors was insufficient, and therefore there was not enough encouragement to use public hospitals for childbirth.

Military academies (except for the nursing academy) did not accept female students, although a significant number of instructors at the military academies were women. In the military reorganization in September, 13 female colonels were promoted to major general across all branches of the military and within the Ministry of Defense. The Police Cadet Academy for commissioned officers accepted female cadets during the March application period for the first time, and 70 of 280 cadets were women. According to the MSDHS, in 2007 women held 22 percent of managerial positions in publicly listed companies and 35 percent in commercial companies. In 2008 women held 16 percent of high-level administrative positions in the government sector. According to the Office of the Civil Service Commission, women held 21 percent of executive-level positions. Women were able to own and manage businesses freely. Government regulations require employers to pay equal wages and benefits for equal work, regardless of gender. Nonetheless, discrimination in hiring was common, and women were concentrated in lower-paying jobs. In practice women received lower pay for equal work in many sectors of the economy.

The government's Office of Women's Affairs and Family Development promotes the legal rights of women, notably through the suboffice of the Bureau of Gender Equality Promotion.

Children.—According to NGOs, highlanders and other stateless individuals on occasion did not register births with the authorities because administrative complexities, misinformed and unscrupulous local officials, language barriers, and restricted mobility made it difficult to do so (see section 2.d.).

Citizenship is not automatically conferred by birth occurring within the country. By law citizenship is based either on birth to one or more Thai parents, marriage to a Thai male, or naturalization. It can also be acquired by means of special government-designated criteria implemented by the MOI. Finally, it can be granted as a result of the 2008 Nationality law (see section 2.d.).

Primary education was compulsory, free, and universal. Violence in the southern provinces, especially that aimed at public school teachers, sporadically forced the temporary closure of public schools and disrupted the educational process in those areas. During the year the government extended compulsory education from eight to 12 years and increased free education from 12 to 15 years. The government subsidized tuition fees, uniforms, textbooks, and additional charges from school but did not provide food and transportation.

Many NGOs reported that most children of registered migrant workers, particularly in Chiang Mai and Mae Sot, were permitted to attend public schools; however, language barriers, distance from school, and frequent relocations to follow parents to new jobs sites prevented some migrant children from attending school. These children remained without access to community services provided to children attending public schools, such as day-care centers, government-subsidized free milk, and lunch privileges. Migrant workers who could afford it often chose to send their children to private nurseries or day-care centers at their own expense.

The law provides for the protection of children from abuse, and laws on rape and abandonment carry harsher penalties if the victim is a child. The law imposes a jail term of seven to 20 years' imprisonment and a fine of up to 40,000 baht (approximately \$1,190) for sexual intercourse with a victim under the age of 13. If the victim is under the age of 15, the penalty is four to 20 years' imprisonment and a fine of up to 40,000 baht (\$1,190).

During the year a private university-sponsored poll of persons ages 12 to 24 in the Bangkok area found that 12.9 percent had encountered sexual harassment. Police were reluctant to investigate abuse cases, and rules of evidence made prosecution of child abuse difficult. The law is designed to protect witnesses, victims, and offenders under the age of 18, and procedures with a judge's consent allow children to testify on videotape in private surroundings in the presence of a psychologist, psychiatrist, or social worker. However, many judges declined to use videotaped tes-

timony, citing technical problems and the inability to question accusers and defendants directly in court. Some children's advocates claimed that female minor sexual abuse victims were better cared physically and psychologically than male victims. Persons charged with pedophilia are charged under appropriate age of consent and prostitution laws. Victims' testimony is handled under the provisions of the Child Friendly Procedure Act.

Child prostitution remained a problem, primarily for adolescent girls, including trafficking in children for commercial sexual exploitation. Pedophilia continued, both by citizens and by foreign sex tourists. In 2007 the government, university researchers, and NGOs estimated that there were as many as 60,000 prostitutes under age 18. The Prostitution Prevention and Suppression Act makes child prostitution illegal and provides for criminal punishment for those who use prostitutes under age 18. Section 8 of the act provides that a customer who has sexual intercourse with a sex worker under the age of 15 shall be subject to two to six years' imprisonment and a fine of up to 120,000 baht (\$3,750); if the sex worker is between the ages of 15 and 18, the prison term is one to three years, and the fine can increase to 60,000 baht (\$1,875). Parents who allow a child to enter into prostitution also are punishable and can have their parental rights revoked. Those who procure children for prostitution face strict penalties, and the punishment is more severe if the minors involved are under 15. Section 287 of the penal code prohibits the production, distribution, and import/export of child pornography. The penalty is imprisonment of not more than three years and/or a fine of not more than 6,000 baht (\$180).

A 2005 study widely cited by NGOs and state agencies estimated that there were approximately 20,000 street children in major urban centers. However, the government and NGOs could provide shelter to only 5,000 children each year. Generally, the children were referred to government-provided shelters, but many, especially foreign illegal migrants, reportedly avoided the shelters due to fear of being deported. From October 2008 to September, 29 state shelters took in 160 children, 24 of whom were girls, both national and foreign. Ultimately the government either sent citizen street children to school, to occupational training centers, or back to their families with social worker supervision. Street children from other countries were repatriated.

Street children were often left out of national reports on child labor matters, and national statistics on street children often included only citizens.

Trafficking in Persons.—The comprehensive antitrafficking law that came into force in June 2008 extends the definition of trafficking in persons to include trafficking for the purpose of labor exploitation and the trafficking of male victims. The law provides stringent penalties for crimes involving human trafficking. It also makes trafficking a predicate crime for prosecution under the Anti-Money Laundering Act, allowing for additional penalties and asset confiscation. The government continued efforts to fully implement the 2008 law, including drafting related government regulations and conducting broad training efforts.

The country was a source, transit, and destination for victims of human trafficking. There were reports that persons were trafficked to, from, through, and within the country for a variety of purposes, including fishing-related industries, factories, agriculture, construction, domestic work, and begging. Trafficked women and children (particularly girls) were often victims of sexual exploitation. Credible studies and evidence suggested that the trafficking of men for labor exploitation, especially migrant workers, was also prevalent. Foreign trafficking victims within the country included persons from Burma, Laos, Cambodia, and Vietnam. The trafficking of men, women, and children into such fields as commercial fisheries and seafood processing in Samut Sakhon Province was widely alleged, and such trafficking was documented in the field of garland making. Some portion, believed by the UN, NGOs, and the government to be a minority, of the estimated 200,000 to 300,000 sex industry workers in the country were either underage or in involuntary servitude or debt bondage.

Within the country, women from the impoverished northeast and north were trafficked for sexual exploitation. However, internal trafficking of women was suspected to be on the decline, due in part to prevention programs. In 2008 the government assisted Thai citizens who had been trafficked abroad to Bahrain, Malaysia, Taiwan, Singapore, South Africa, and Hong Kong. The country's embassies had a continuing mandate to assist Thai victims of trafficking abroad.

According to credible reports, there also were Burmese citizens trafficked from Malaysia across Thailand's southern border, and Cambodian trafficking victims were identified among deportees from Thailand. Victims of trafficking were often lured into or through the country with promises of restaurant, spa, or household work and then were pressured or physically forced into prostitution.

The lack of citizenship status for some hill tribe women and children was a significant risk factor for becoming victims of trafficking. Although members of this group were not a large percentage of trafficking victims, they continued to be found in disproportionately large numbers in situations entailing severe forms of trafficking.

Trafficking within the country and from neighboring countries into the country tended to be carried out by loosely organized small groups that often had close ties in the source communities. Burmese, Laotian, Cambodian, and Thai individuals were involved in labor trafficking along the border. Informal chains of acquaintance often were used to recruit victims. In some cases the traffickers themselves were former victims, particularly where the sex industry was the destination.

Some women in prostitution worked in debt bondage. Because foreign victims frequently were unable to speak the language, they were particularly vulnerable to physical abuse and exploitation. Reports of labor trafficking also were received from Burmese and Cambodian migrant workers, who were ostensibly offered jobs in the food processing industry but were later induced or forcibly transported to work on fishing vessels, on some occasions for years at a time.

A May 17 immigration police raid on a small garland-making factory located in a home in Samut Sakhon rescued 19 Laotian girls and young women, ages 12-20, whom the police considered victims of human trafficking. The immigration police arrested the two factory owners on charges of human trafficking, child labor, and receiving and sheltering illegal immigrants. The victims were being cared for in a government shelter. The charges were dropped after the employers agreed to pay the workers. In September the victims returned to Laos.

In August the DSI, in cooperation with Vietnamese antitrafficking police, rescued eight Vietnamese women from forced prostitution in the province of Yala. The women had been told that they were going to work in restaurants in Singapore; instead, they were brought to Thailand and forced to work as prostitutes. The DSI arrested one alleged trafficker. At year's end the eight women were in protective custody and were cooperating with the investigation.

In November a criminal court convicted and sentenced the two defendants for the trafficking of workers in the Anoma Samut Sakhon shrimp processing factory raided in March 2008. According to the prosecutor, one defendant, who pled guilty to some of the charges, was sentenced to five years in prison and a one million baht (approximately \$30,000) fine, and the second defendant, who denied all charges, received a sentence of eight years in prison and a two million baht (\$60,000) fine.

There were continued allegations that local officials protected brothels and other facilities from raids. There was no evidence that high-level officials benefited from or protected the practice. The government did not report investigations or prosecutions of officials for trafficking-related corruption.

According to the law, penalties against traffickers vary according to the age of the victim and the types of trafficker. If the offender is an individual, the law prescribes imprisonment of four to 10 years and a fine of 80,000 to 200,000 baht (\$2,400 to \$6,000) for trafficking offenses committed against victims more than 18 years old. For offenses against children between 15 and 18, the punishment is six to 12 years' imprisonment and a fine of 120,000 to 240,000 baht (\$3,600 to \$7,200). For offenses against children under 15, the penalty ranges from eight to 15 years' imprisonment and a fine of 160,000 to 300,000 baht (\$4,800 to \$9,000). If the offender is a corporation, the law prescribes a fine of 200,000 to one million baht (\$6,000 to \$30,000), and the responsible authority in the convicted corporation may be sentenced to six to 12 years' imprisonment and a fine of 120,000 to 240,000 baht (\$3,600 to \$7,200). The law also prescribes penalties for those who obstruct the process of an investigation and prosecution.

The 2008 trafficking law established an antitrafficking-in-persons committee chaired by the prime minister, with relevant officials from the MSDHS acting as the committee's secretariat and assisting in the coordination of the government's antitrafficking efforts. The RTP's Children, Juveniles, and Women Division (CWD) is specifically charged with investigating human trafficking crimes, although cases are also handled by other police units. In 2008 the Transnational Crime Coordination Center was set up in the RTP to be a specialized unit responsible for collecting and analyzing information, strategic planning, and coordinating work on 11 types of transnational crimes (including trafficking). The DSI also investigates special cases, including complex transnational case. The MSDHS is charged with providing assistance and shelter to trafficking victims. The government reported that the CWD alone investigated 54 traffickers in 2008, associated with cases involving 82 victims. Thirty-four of these victims were involved in forced child labor, while 48 were involved in trafficking-related prostitution.

Trafficking victims cannot be charged with the crimes associated with their case, such as immigration violations if trafficked over the border or prostitution if forced. They also receive assistance in government shelters. Memorandums of Understanding (MOUs) among government agencies, between provincial governments in the country, and between the government and domestic NGOs provided some detailed police procedures to assist with the problem of trafficked persons being detained by the authorities. The MOUs stated that the training of police officers would include instructions to treat such persons as trafficking victims rather than as illegal immigrant workers. Instead of being deported, they would become the responsibility of the MSDHS. The government continued broad training efforts with regard to the trafficking law, victim identification, and the MOUs. However, implementation of aspects of the law and MOUs was at times erratic, with reports of trafficking victims identified among deportees to Cambodia.

In general the government cooperated with governments of other countries in the investigation of transnational crimes, including trafficking. On April 24, the country signed a bilateral antitrafficking MOU with Burma, similar to existing MOUs with Cambodia, Laos, and Vietnam. Receiving countries generally initiated trafficking case investigations. The Ministry of Foreign Affairs assisted 443 Thai victims of trafficking to return from abroad from October 2007 to September 2008, compared with 403 during the same period one year prior.

The law permits the extradition of Thai citizens under the terms of extradition treaties or reciprocal arrangements with requesting countries. The OAG reported that no citizens were extradited for trafficking-related offenses during the year. However, in 2008 the government extradited or deported foreign nationals to Japan, Australia, Germany, Bahrain, China, the United Kingdom, and the United States for the purpose of prosecuting trafficking-related crimes.

Several NGOs, both local and international, and government agencies worked with trafficking victims. As mandated in interagency MOUs, police, prosecutors, and social workers increasingly cooperated with NGO officials in a "multidisciplinary team" approach to trafficking. Such cooperation included coordination on raids of suspected facilities as well as the provision of assistance to trafficking victims. The government worked with the International Labor Organization's (ILO) International Program on the Elimination of Child Labor to implement projects to reduce the incidence of trafficking of children for labor and sexual exploitation. The government worked to make accessible a new fund to assist antitrafficking activities that was established under the 2008 law.

Victims of trafficking, including non-Thai citizens awaiting repatriation, generally were brought to government-run shelters, including at least one new shelter specifically established for male victims of trafficking. Foreign victims generally were not eligible for work permits, which would enable them to work outside the shelter, although the government continued to develop a mechanism for them to do so in compliance with the antitrafficking law. In practice local officials on occasion allowed them to work. The government facilitated paid work to be conducted within shelters for some victims. NGOS reported complaints by some foreign victims in shelters who believed that the government did not handle their repatriation in a timely fashion. In 2008 eight government shelters (for women and children) received 622 female and child victims of trafficking, including 520 foreign trafficking victims in Thailand, 58 Thai trafficking victims in Thailand, and 44 Thai trafficking victims abroad. The government provided food, medical care, legal assistance, job training, and psychological counseling, although precise data on the level of this assistance was not available.

Trafficking victims received some legal assistance from NGOs and Department of Welfare officials, and they generally were informed of the option of pursuing legal action against the trafficking perpetrators. Some victims participated in investigation and prosecution efforts, although many opted not to do so due to distrust of government officials and lengthy legal processes. There were reports that some foreign victims attempted to not be identified as victims of trafficking to avoid lengthy residency in government shelters, preferring deportation in order to be able search for new employment.

The government continued efforts to raise awareness about trafficking in persons and continued cooperative arrangements with NGOs and local industries, especially the hotel industry, to encourage youths (particularly girls) to find employment outside the sex industry and other exploitative work. Vocational training programs aimed at high risk and vulnerable populations also received funding. Although the vocational training was not intended explicitly for trafficking prevention, the practical effect was to increase the range of employment choices.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The constitution prohibits discrimination against persons with physical and mental disabilities in education and provides for access to health care and other state services. The constitution also mandates newly constructed buildings to have facilities for persons with disabilities, but these provisions were not uniformly enforced. Activists continued to work to amend laws that allow employment discrimination against persons with disabilities.

In September the Central Administrative Court dismissed a petition filed against the Bangkok Metropolitan Administration and the Bangkok Transit System (BTS), claiming that the BTS stations did not provide accessible facilities as required by the Disabled Rehabilitation Act of 1991. The court ruling specified that the BTS had installed elevators at five stations and was conducting a survey at 18 more.

Persons with disabilities who register with the government are entitled to free medical examinations, wheelchairs, and crutches. The government provided five-year, interest-free small business loans for persons with disabilities.

There were two community-based rehabilitation programs in each of the 76 provinces. A pilot program for providing special living spaces for disabled places expanded from Khon Kaen to the four other provinces: Chaing Rai, Nakhon Sawan, Nakhon Pathom, and Trang. There was also a Disabled People Model Fair in July.

The government maintained 43 special schools for students with disabilities. The MOE reported that there were 76 centers nationwide offering special education programs for preschool-age children, one in each province. There were approximately 10,000 schools nationwide that conducted a joint normal-disabled studies program. There also were nine government-operated and 23 NGO-operated training centers for persons with disabilities, including both full-time and part-time/seasonal centers. There were also 10 state shelters specifically for persons with disabilities. In addition, there were private associations providing occasional training for persons with disabilities. There were reports of schools turning away students with disabilities, although the government claimed that such incidents occurred because schools did not have appropriate facilities to accommodate such students.

Many persons with disabilities who found employment were subjected to wage discrimination. According to NGOs, government regulations require private firms either to hire one person with a disability for every 200 other workers or contribute to a fund that benefits persons with disabilities, but this provision was not enforced. Government officials estimated that as many as 50 percent of firms complied with the law; the chairman of the Council of Disabled People of Thailand believed the number to be 40-50 percent. Some state enterprises had discriminatory hiring policies.

National/Racial/Ethnic Minorities.—Two groups—former belligerents in the Chinese civil war and their descendants living in the country since the end of the civil war, and children of Vietnamese immigrants who resided in 13 northeastern provinces—lived under laws and regulations that could restrict their movement, residence, education, and occupation. The Chinese are required to live in the three northern provinces of Chiang Mai, Chiang Rai, and Mae Hong Son. According to the MOI, none were granted citizenship during the year.

Indigenous People.—Members of hill tribes who were not citizens continued to face restrictions on their movement, could not own land, had difficulty accessing credit from banks, and were not protected by labor laws, including minimum wage requirements. They also were barred from state welfare services such as universal health care.

The 2008 Nationality Act provides citizenship eligibility to certain categories of highlanders who were not previously eligible (see section 2.d.). Although the government was supportive of efforts to register citizens and educate eligible hill tribe persons about their rights, activists reported that widespread corruption and inefficiency, especially among highland village headmen and district and subdistrict officials, contributed to a backlog of pending citizenship applications as well as improperly denied applications.

Hill tribe members continued to face societal discrimination arising in part from the belief that they were involved in drug trafficking and environmental degradation.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—There are no laws that criminalize sexual orientation. NGOs dealing with lesbian, gay, bisexual, and transgender (LGBT) matters were generally able to operate freely. They were able to register with the government, although there were some restrictions with the language that can be used in registering their group names. They reported that police treated LGBT victims of crime as any other except in the case of sexual crimes, when there was a tendency to downplay sexual abuse or not take harassment seriously.

An effort to organize a gay pride parade in Chiang Mai in February failed due to a lack of government support combined with social hostility. Provincial authorities, except for the MPH, withheld permission to conduct the event. UDD members protested against the event and condemned the organizers, while police did not provide adequate protection, creating a hostile situation.

There was continued discrimination based on sexual orientation and gender identity. The Thai Red Cross would not accept blood donations from gay men. Some life insurance companies refused to issue policies to gay persons. According to military sources, the armed forces did not draft gay or transgendered persons because of the assumed detrimental impact on the military's strength, image, and discipline. The official rejection rationale recorded in military documentation was "Type 3—Sickness That Cannot Be Cured Within 30 Days," as opposed to the previously utilized "Type 4—Permanently Disabled or Mentally Ill." The law does not permit transgendered individuals to change their gender on identification documents. Some major businesses did not allow transgendered persons to use their preferred bathrooms. NGOs also alleged that some nightclubs, bars, hotels, and factories denied entry or employment to gays, lesbians and transgendered individuals.

In December the rectors of the Rajabhat Institutes, which operated state-run universities throughout the country, rejected a request forwarded by the Cross-Dresser Network of Thailand to allow transsexual students to wear female outfits at their commencement ceremonies.

Other Societal Violence or Discrimination.—Persons with HIV/AIDS faced the psychological stigma associated with rejection by family, friends, colleagues, teachers, and the community, although intensive educational outreach efforts may have reduced this stigma in some communities. There were reports that some employers refused to hire persons who tested HIV-positive following employer-mandated blood screening. According to the Thailand Business Coalition on AIDS, an estimated 6,630 businesses pledged not to require HIV/AIDS tests for employees or discharge infected employees and vowed to hold regular awareness campaigns, with 989 joining during the year. In December it was announced on World AIDS Day that the government had adopted condom use as an item on the national agenda and would distribute 30 million to all citizens, including sex workers.

The NHRC was investigating a complaint filed in September about the so-called AIDS temple, Wat Phrabat Namphu, which sheltered many dying AIDS patients. AIDS activists objected to the temple's practice of displaying corpses of AIDS patients as a cautionary tale, although temple officials stated that the patients gave consent. At year's end the case was under consideration.

Section 7. Worker Rights

a. The Right of Association.—The law allows all private sector workers to form and join trade unions of their choosing without prior authorization; however, enforcement of the law was inconsistent. In many instances the Labor Relations Act (LRA) and Labor Protection Act (LPA) were not effective in protecting workers who participated in union activities. The law allows unions to conduct their activities without government interference. The law also permits workers to strike, and this right was exercised in practice.

The labor law does not allow civil servants, including public school teachers, soldiers, and police, to form or register a union, but these associations do not have the right to bargain collectively. Labor activists and some civil servants interpreted the 2007 constitution as broadening the freedom of association to include granting civil servants the right to form a union. While efforts by a small number of civil servants to organize a union or unions were underway, the related labor laws had not been amended to allow civil servants to do so.

The State Enterprise Labor Relations Act (SELRA) gives state-owned enterprise workers the right to form unions. However, the law restricts affiliations between state enterprise unions and private sector unions. Unofficial contacts at the union level between public and private sector workers continued, and the government did not interfere with these relationships. Unions in state-owned enterprises generally operated independently of the government and other organizations.

Noncitizen migrant workers, whether registered or illegally present, do not have the right to form unions or serve as union officials; however, registered migrants may be members of unions organized and led by Thai citizens. A few registered migrants joined unions, but the number who did so was low, due in part to language barriers and the fact that migrant workers and Thai workers often worked in different industries. A substantial number of migrant workers worked in factories near border-crossing points, where labor laws were routinely violated and few inspections were carried out to verify compliance with the law.

The labor force consisted of 39.3 million persons. Less than 2 percent of the total work force but nearly 10 percent of industrial workers and more than 59 percent of state enterprise workers were unionized. At the end of 2008, there were 44 state enterprise unions with 175,000 members and 1,229 private labor unions with 341,520 members. The number of private labor unions decreased, but the number of members in private unions increased by more than 10,000.

Workers can be dismissed for any reason, provided severance payment is made. The law does not provide for reinstatement, and the requirement for severance pay was not always respected. The labor court reinstated employees in some cases where dismissal resulted from union activity and was illegal. However, because the reinstatement process was lengthy and costly for the employee, most cases were settled out of court through severance payments to the employee, and there were no punitive sanctions for employers.

At year's end labor union leader Jitra Kotchadet, who lost her case against garment maker Triumph International for dismissing her without cause in 2008, was awaiting the result of her appeal in the Supreme Court.

In June Triumph announced plans to lay off nearly 2,000 workers at one of its subsidiary companies, blaming the global economic situation and a drop in demand. Union leaders argued that this was an attempt to purge the firm of active union members, many of whom had protested Jitra's dismissal in 2008. Following an August demonstration outside the seat of the government, the media reported that arrest warrants were issued for three protest leaders, including Jitra, for illegal assembly, resisting police orders, instigating unrest, and obstructing traffic. In mid-October laid-off employees moved their protest to the Ministry of Labor (MOL) building, where they remained through the end of the year. In December the Samut Prakan Labor Court dismissed the laid-off workers' case demanding additional severance pay. According to press reports, the court reasoned that the workers had received severance pay in accordance with the LPA and their firings resulted from Triumph's financial loss; therefore, a 1999 agreement to pay higher severance pay if layoffs were due to operational restructuring did not apply. The workers planned to appeal the decision.

The government has the authority to restrict private sector strikes that would affect national security or cause severe negative repercussions for the population at large; however, it seldom invoked this provision in the past and did not do so during the year. The law also forbids strikes in "essential services," which are defined much more broadly than in the ILO criteria and include sectors such as telecommunications, electricity, water supply, and public transportation as essential services. The law prohibits termination of employment of legal strikers; however, some employers used unfavorable work assignments and reductions in work hours and bonuses to punish strikers. Employers are legally permitted to hire workers to replace strikers. Strike action in the private sector was constrained by the legal requirement to call a general meeting of trade union members and have a strike approved by at least 50 percent of unionists. During the year there were strikes against international automotive companies, generally after negotiations over compensation had reached an impasse. In at least one instance while negotiations were still underway, management threatened a lockout, alleging that workers were damaging vehicles on the production line.

SELRA prohibits lockouts by state enterprises and strikes by state enterprise workers. However, on several occasions a large number of state enterprise workers took sick leave or vacation, leading to the closing of business operations. No legal action was taken against those workers.

In June more than 200 members of the State Railway Workers' Union of Thailand failed to report to work, leading to an interruption in rail services, to protest a proposed reorganization of the State Railway of Thailand, which the union viewed as an attempt to privatize the railway. In October union members interrupted for several days rail services in the southernmost provinces. Pointing to a fatal train derailment that was widely blamed on union operator error, a union spokesperson cited concerns about passenger safety as the reason for the temporary stop in service.

During 2008 there were 56 labor disputes, 48 of which occurred outside Bangkok. There were reports of four lockouts by employers and 11 strikes by employees.

b. The Right to Organize and Bargain Collectively.—The law provides for the right of citizen private-sector workers to organize and bargain collectively; however, labor union leaders stated that the government's efforts to protect this right were weak. The law defines the mechanisms for collective bargaining and for government-assisted conciliation and arbitration in cases under dispute. In practice genuine collective bargaining occurred only in a small fraction of workplaces; however, many disagreements were settled successfully.

The law prohibits antiunion actions by employers; however, it also requires that union officials be full-time employees of the company or state enterprise, which made them vulnerable to employers seeking to discipline workers who served as union officials or who attempted to form unions. It also served as a prohibition against permanent union staff, thus limiting the ability of unions to organize in depth and be politically active. The LRA allows only two government-licensed outside advisors to a union, and labor activists alleged that local-level MOL offices blocked the registration of labor advisors deemed too activist. Union leaders and outside observers complained that this interfered with the ability to train union members and develop expertise in collective bargaining and that it contributed to rapid turnover in union leaders.

Employers reportedly discriminated against workers seeking to organize unions. The law does not protect workers from employer reprisal for union activities prior to the registration of the union, and employers could exploit this loophole to defeat efforts at union organization. Employers used loopholes in the LRA to fire union leaders prior to government certification of unions. During the year there were several reported cases of workers being dismissed from their jobs for engaging in union activities. In some cases the court ordered workers reinstated if grounds for their dismissal were proven inaccurate.

A system of labor courts exercises judicial review over most aspects of labor law for the private sector; however, there was reported abuse in the system. Problems of collective labor relations are adjudicated through the tripartite labor relations committee and are subject to review by the labor courts. Workers may also seek redress through the NHRC. The law authorizes the MOL to refer any private sector labor dispute for voluntary arbitration by a government-appointed group other than the Labor Relations Committee. Although the legal authority seldom was used, the ILO viewed this provision as acceptable only in defined essential services.

Redress of grievances for state enterprise workers was handled by the State Enterprise Relations Committee. Labor leaders generally were satisfied with the treatment that their concerns received in these forums, although they complained that union leaders unjustly dismissed were awarded only back wages with no punitive sanctions against the employer. This limited any disincentive for employers to fire union organizers and activists.

Labor brokerage firms used a "contract labor system" under which workers signed an annual contract. Although contract laborers performed the same work as direct-hire workers, often they were paid less and received fewer, or no, benefits. Contract laborers are covered under the law, and according to the 2008 Labor Protection Act, businesses must provide contract laborers "fair benefits and welfare without discrimination." Regardless of whether the contract labor employee was outsourced and collecting wages from a separate company, the contracting business is the overall employer. It remained unclear how benefits and welfare are defined under the act. Plaintiffs filed lawsuits in an attempt to seek clarification of their obligations under the new law, but these cases were unresolved at year's end.

There are no special laws or exemptions from regular labor laws in export processing zones. However, union leaders alleged that employers' associations were organized to cooperate in discouraging union organization in the zones. In special industrial estates, union organization was common at major international firms.

c. Prohibition of Forced or Compulsory Labor.—The constitution prohibits forced or compulsory labor except in the case of national emergency, war, or martial law. The 2008 Antitrafficking in Persons Act criminally prohibits all forms of human trafficking, including forced labor; however, the government lacked the capacity to enforce these provisions effectively in the large informal sector.

Employers routinely kept possession of migrant workers' registration and travel documents, which restricted their travel outside of the work premises. Employers claimed this was done to ensure repayment of loans given to workers to pay for the documents. Nevertheless, there continued to be reports of sweatshops or abusive treatment in livestock farms, seagoing trawlers, animal feed factories, garment factories, and shrimp processing factories in which employers prevented workers, primarily foreign migrants, from leaving the premises. There were no estimates of the prevalence of such illegal actions, but the large number of migrants from Burma, Cambodia, and Laos created opportunities for abuse.

In January 2008 the police rescued three Laotian girls and arrested three Thais on charges of abuse and child slavery. The girls worked as domestic employees in Samut Prakarn for two years before being rescued. They were regularly beaten or burned when the employers were dissatisfied with their work. In June 2008 one offender was sentenced to a year in prison and 12,500 baht (\$375), and another was sentenced to six months in prison and a 7,500 baht fine (\$225). In August 2008 the

third perpetrator was sentenced to five months in prison, a 7,350 baht fine (\$220), and community service.

Police arrested four individuals in the 2007 death of a Karen migrant worker who attempted to flee a factory in Supanburi Province, where he allegedly had been subjected to forced labor and severe physical abuse by his employer. Factory owner Sarawut Ayuken was charged with murder and with providing work and shelter to illegal migrant workers. On August 10, he was sentenced to death by the criminal court, and on November 6, he submitted his appeal. The court dismissed the cases against two other defendants, who were Cambodian, and the government appealed. The defendants remained in prison awaiting the decision of the appeals court.

On October 11, law enforcement officers from multiple agencies, working in cooperation with NGO representatives, rescued 18 Burmese who were forced to work in fishing boats in Chonburi Province and arrested three individuals. Two were charged with human trafficking. Two were also charged with attempting to bribe law enforcement officers.

Problems encountered by Thai citizens working overseas highlighted the problem of exploitative labor supply agencies that charged heavy and illegal recruitment fees often equal to a worker's first- and second-year earnings. In many cases recruited workers did not receive the terms they were promised and incurred significant debt. Local banks contributed to this practice by offering exorbitant loans to allow workers to pay recruitment fees, which ranged from 300,000 to one million baht (approximately \$9,000 to \$30,000) for workers traveling abroad. The Department of Employment issued regulations mandating the maximum charges for recruitment fees to ensure that the fees are not excessive. However, effective enforcement of the rules was difficult.

d. Prohibition of Child Labor and Minimum Age for Employment.—In general, sufficient legal protections exist for children in the formal economic sector. The LPA is the primary law regulating employment of children under the age of 18. Employment of children under 15 is prohibited. An exception exists for children 13 to 15 years old who have parental permission to perform agricultural work during school breaks or nonschool hours as long the employers provide a safe work environment. Employers may not require children under 18 to work overtime or on a holiday and may not require work between 10 p.m. and 6 a.m. without MOL approval. Children under 18 must not be employed in hazardous work, which includes any activity involving metalwork, hazardous chemicals, poisonous materials, radiation, and harmful temperatures or noise levels; exposure to toxic microorganisms; operation of heavy equipment; underground or underwater work; and work in places where alcohol is sold or in massage parlors. The maximum penalty for violating these prohibitions is one year in prison, fines up to 200,000 baht (\$6,000), or both. The LPA does not cover workers in some informal sectors, such as fishing and domestic employment. The law allows for issuance of ministerial regulations to address sectors not covered in the law; such regulations increased protections for child workers in domestic and agricultural sector work.

Child labor remained a problem, particularly in agriculture and in garment- and fishing-related industries. However, the extension of compulsory education to 12 years and the granting of government assistance for tuition fees, uniforms, and textbooks was expected to reduce the number of child workers. According to a study funded by the MOL and the ILO, labor abuse of child citizens was declining, and such children made up less than 1 percent of the workforce.

Official MOL statistics showed that approximately 2,065 children between 15 and 17 years old were working legitimately. However, the number of all child laborers, legal and illegal, was likely much larger when taking into consideration child laborers under 15 and unregistered migrant children. NGOs reported that 2 to 4 percent of children between the ages of six and 14 worked illegally in urban areas; such children were at risk of becoming victims of other abuses of labor laws.

Most underage workers in urban areas worked in the service sector, primarily in gasoline stations, small-scale industry, and restaurants. Street begging and the selling of flowers also remained prevalent. Child labor was less evident in larger, export-oriented factories. NGOs also reported greater child labor in garment factories along the Burmese border, in Mae Sot Province. However, there was no comprehensive survey of child labor throughout the country, since NGOs often did not have access to shophouse factories. NGOs reported child domestic workers were predominantly migrants from Burma, Cambodia, and Laos. Most were in the country illegally, increasing their vulnerability to exploitation.

Observers believed that while the prevalence decreased, children (usually foreign) were exploited in street selling, begging, domestic work, agriculture work, and prostitution in urban areas, sometimes in a system of debt bondage. There were reports

of street children who were bought, rented, or forcibly “borrowed” from their parents or guardians to beg alongside women in the street.

The MOL is the primary agency charged with enforcing child labor laws and policies. Labor inspectors were usually reactive, rather than proactive, and normally responded only to specific public complaints, reports of absences by teachers, or reports in newspapers. In line with prevailing cultural norms, their inclination when dealing with violators was to negotiate promises of better future behavior rather than seek prosecution and punishment. The legal requirement for a warrant hampered inspection of private homes to monitor the welfare of child domestic workers.

e. Acceptable Conditions of Work.—The minimum wage ranged from 150 baht to 203 baht per day (\$4.50 to \$6.09), depending on the cost of living in various provinces. This wage was not adequate to provide a decent standard of living for a worker and nuclear family. The minimum wage is set by provincial tripartite wage committees.

The government sets wages for state enterprise employees under SELRA. Wages for civil servants are determined by the Office of Civil Service Commission. However, the 2008 Civil Servant Act gives each ministry or department more flexibility in designing civil servant salary levels.

The MOL is responsible for ensuring that employers adhere to minimum wage requirements (applicable to the formal sector); however, enforcement of minimum wage laws was mixed. Some formal sector workers nationwide received less than the minimum wage, especially those in rural provinces. Labor protections apply to undocumented workers; however, many unskilled and semiskilled migrant workers worked for wages that were less than half the minimum wage.

The LPA mandates a uniform workweek of 48 hours, with a limit on overtime of 36 hours per week. Employees engaged in “dangerous” work, such as chemical, mining, or other industries involving heavy machinery, legally may work a maximum of 42 hours per week and are not permitted overtime. Petrochemical industry employees cannot work more than 12 hours per day and can work continuously only for a period not exceeding 28 days.

During 2008 there were 176,502 reported incidents of diseases and injuries from industrial accidents. This included 127,059 minor disabilities (resulting in no more than three days of missed work) and 3,742 disabilities resulting in more than three days of missed work (including permanent disabilities and deaths). However, the rate of incidents occurring in the larger informal and agricultural sectors and among migrant workers was believed to be higher. Occupational diseases rarely were diagnosed or compensated, and few doctors or clinics specialized in them. Many of the young migrant women employed along the Burma border had limited and substandard medical care options. In medium-sized and large factories, government health and safety standards often were applied, but overall enforcement of safety standards was lax. In the large informal sector, health and safety protections were substandard.

Provisions of the LPA include protection for pregnant workers, prohibiting them from working on night shifts, overtime, and holidays, with dangerous machinery, or on boats. Despite the act’s prohibition against dismissing pregnant workers regardless of their nationalities, there were reports that employers intentionally laid off workers who became pregnant, using the economic downturn as an excuse.

The MOL promulgates health and safety regulations regarding conditions of work and is responsible for their enforcement; however, the inspection department enforced these standards ineffectively, due to a lack of human and financial resources. There is no law affording job protection to employees who remove themselves from dangerous work situations. According to the MOL’s Department of Labor Protection and Welfare, mining, consumer goods production, and the construction industry violated the most laws regarding workers’ safety.

Redress for workers injured in industrial accidents was rarely timely or sufficient. Few court decisions were handed down against management or owners involved in workplace disasters.

Migrant workers, especially from Burma, remained particularly vulnerable to poor working conditions. Reports indicated that they were routinely paid well below the minimum wage, worked long hours and/or in unhealthy conditions, and because of their generally illegal status were at risk of arrest and deportation. In addition, improper wage deductions for registration, health care, sick days, and employee errors were widespread.

Migrant workers also faced discrimination by a Social Security Office (SSO) policy that denies disabled but registered migrants access to the Workmen’s Compensation Fund (WCF). Irregular migrant workers that complete a new amnesty and related nationality verification process are to have access to WCF and SSO funds (see section 2.d.).

At year's end two cases involving the constitutionality of the SSO policy as well as the case of Nang Noom Mai Seng were pending in the Supreme Court. Nang Noom, a Shan registered migrant worker, was permanently disabled in a 2006 construction accident. She filed a personal compensation claim against the WCF in 2007. In 2008 she filed a joint claim with two other Shan migrant workers, requesting revocation of the same SSO policy. The Administrative Court ruled in November 2008 that administrative courts have no jurisdiction to rule on labor cases. The three workers then petitioned the Central Labor Court to revoke the SSO policy in December 2008. In May the Central Labor Court accepted jurisdiction in the case and decided that labor courts can exercise administrative powers in labor cases. A hearing was held in Chiang Mai; the court refrained from issuing a decision because Nang Noom's first case was pending with the Supreme Court. In October Nang Noom and the other claimants appealed the case to the Supreme Court, arguing that the two cases were separate matters and that the other two plaintiffs were entitled to a decision.

In June the State Enterprise Workers Relations Confederation submitted a complaint to the ILO alleging that the government was breaching ILO convention 19 by denying Burmese migrant workers access to the WCF following accidents at work. The ILO Committee of Experts considered the complaint at the end of November; the result was expected to be released in March 2010.

In 2007 two Shan workers from Burma were involved in a work accident. One worker survived the accident, and his claim to the WCF was accepted. A second worker, Hsai Htun, an unregistered migrant, died four days after the accident. The SSO determined that he was not entitled to access to the WCF because he was an unregistered migrant. Nevertheless, the SSO issued an order for his employer to pay compensation. His family concurrently submitted the case to a labor court in June 2008. In September, after extensive negotiations, the employers agreed to pay 250,000 baht (approximately \$7,500) in compensation. At year's end Hsai Htun's family had not received compensation.

In some provinces, local regulations prohibit migrant workers from owning mobile telephones, leaving a worksite at night between the hours of 8 p.m. and 6 a.m., gathering in assemblies of more than five persons, and organizing or taking part in cultural events. However, the regulations were rarely enforced. There were some reports that security officials harassed NGO personnel who were trying to assist illegal migrant workers.

TIMOR-LESTE

Timor-Leste is a multiparty parliamentary republic with a population of approximately 1.1 million. President Jose Ramos-Horta was head of state. Prime Minister Kay Rala Xanana Gusmao headed a four-party coalition government formed following free and fair elections in 2007. International security forces in the country included the UN Police (UNPOL) within the UN Integrated Mission in Timor-Leste (UNMIT) and the International Stabilization Force (ISF), neither of which was under the direct control of the government. The national security forces are the National Police (PNTL) and Defense Forces (F-FDTL). While the government generally maintained control over these forces, there were problems with discipline and accountability.

Serious human rights problems included police use of excessive force during arrest and abuse of authority; perception of impunity; arbitrary arrest and detention; and an inefficient and understaffed judiciary that deprived citizens of due process and an expeditious and fair trial. Domestic violence, rape, and sexual abuse were also problems.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no politically motivated killings by the government or its agents during the year; however, on May 7, a group of F-FDTL members allegedly beat two men on a beach in Dili, one of whom was subsequently found dead. At year's end the case was under investigation by the Prosecutor General's Office.

On December 28, a PNTL officer shot and killed a 25-year-old man in Dili. A second man suffered injuries in the same incident. The PNTL suspended the officer and referred the case to the Prosecutor General's Office. At year's end the investigation continued.

On February 27, the government brought charges, including attempted homicide and conspiracy, against a group of 28 individuals for their alleged roles in the February 2008 nonfatal shooting of President Ramos-Horta, during which the leader of the attackers, Major Alfredo Reinado, was shot and killed. The trial began on July 13 and continued at year's end.

The prosecutor general declined to pursue charges against an F-FDTL member who shot and killed a civilian in April 2008 in Bobonaro District. The civilian reportedly threatened the F-FDTL member with a machete.

In October 2008 the Baucau District Court sentenced PNTL intelligence officer Luis da Silva to six years' imprisonment for the killing of a member of then candidate Xanana Gusmao's security detail at a political rally in Viqueque in 2007.

In November the prosecutor general cited insufficient evidence and closed the inquiry into the 2007 case of a PNTL unit firing into a crowd in Viqueque, killing two.

Four trials and 15 investigations continued against individuals accused of illegal actions during the 2006 political crisis, which, according to a UN Special Commission of Inquiry estimate, caused 38 deaths, 69 injuries, and the displacement of approximately 150,000 persons. In December the prosecutor general, citing lack of evidence of unlawfulness or culpability, dismissed weapons distribution charges against F-FDTL Commander Major General Taur Matan Ruak, former defense minister Roque Rodriques, Brigadier General Lere Anan Timur, Colonel Falur Rate Laek, and Colonel Manuel Soares Mau Buti.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and the government generally respected the prohibition against torture; however, there were incidents of cruel or degrading treatment of civilians by police and military personnel. Parliamentarians, nongovernmental organizations (NGOs), UNMIT, and the Office of the Ombudsman (Provedor) for Human Rights and Justice received numerous complaints of use of excessive force by security forces. Most involved beatings, use of excessive force during incident response or arrest, threats made at gunpoint, and intimidation.

On June 7, F-FDTL personnel beat at least two civilians and reportedly pointed their weapons at UNPOL members after breaking up a fight between two martial arts groups in Maliana, Bobonaro District. At year's end a criminal investigation was ongoing.

Also in June an F-FDTL member, using his rifle, allegedly threatened and beat a residential security guard. The guard filed official complaints with both the F-FDTL and PNTL, but it was not clear that an investigation was opened.

On September 26 a group of F-FDTL members physically assaulted a Timorese woman and two foreign military personnel. One of the F-FDTL members involved was expelled from the military on December 22.

On November 21, an off-duty policeman allegedly shot and seriously injured Mateus Pereira in Vila Verde, Dili. The secretary of state for security said the case was under investigation.

On August 8, a crowd in Suai severely beat Indonesian citizen Martenus Bere until the police intervened and took him into custody. Bere commanded one of the pro-Indonesian militias during the 1999 popular consultation that led to Timor-Leste's independence, and the UN Serious Crimes Unit indicted him for crimes against humanity in 2003. He crossed into Timor-Leste to attend his father's funeral and was recognized by local citizens (see section 5).

The Ombudsman's Office investigated 40 cases of mistreatment committed by PNTL or F-FDTL personnel during the state of siege that lasted from February to May 2008, after the shooting of President Ramos-Horta. On June 29, the Office of the Ombudsman presented its findings to parliament. At year's end the report had not been made public. UNMIT received allegations of 58 incidents of mistreatment by F-FDTL and PNTL members during the state of siege. Some cases were investigated by authorities and forwarded to the Prosecutor General's Office, but no indictments were filed.

On January 26, the Bacau District Court sentenced the former Bacau PNTL sub-district commander Fransio Ersio Ximenes to one year's imprisonment for using coercion to obtain information from a suspect in January 2008. Ximenes admitted that he beat the victim with a baton during questioning. His sentence was suspended for two years, and at year's end he remained on active duty in Bacau.

At year's end there were no developments in the January 2008 arrest of three PNTL officers in Suai for allegedly having participated in gang-related violence that resulted in 15 persons injured and 20 houses burned, or the May 2008 beating of four residents of Dili's Quintal Boot neighborhood by PNTL Task Force members.

On June 30, two police officers accused of the November 2008 assault of a woman in Ossu Subdistrict, Viqueque District, were sentenced to two and six months' suspended imprisonment. The two remained on active duty.

On February 10, the Court of Appeal upheld a four-year prison sentence for a PNTL officer found guilty of attempted manslaughter for the shooting and injuring of a civilian in Covalima in 2007.

At year's end there were no developments in the following 2007 incidents: the case in which an armed group wearing F-FDTL uniforms attacked and burned the homes of six families in Dili, the case in which six to 10 F-FDTL uniformed persons attacked several homes near the national hospital, and the case in which F-FDTL members detained and allegedly beat approximately 10 persons for disorderly conduct.

Prison and Detention Center Conditions.—Prison conditions generally met international standards, although there were no separate facilities for women and youth offenders. There were two prisons run by the civilian authorities, located in Dili (Becora) and Gleno. Together the two prisons held 223 individuals (reliable estimates of the designed capacity of the prisons were not available). The vast majority were pretrial detainees charged with homicide, robbery, or sexual assault. Four of the prisoners were women, and 10 were juveniles. The F-FDTL operated a military prison facility at its headquarters in Dili without civilian oversight.

UNMIT personnel noted allegations of mistreatment of prisoners by prison guards during the first 72 hours of imprisonment and a lack of special facilities for the mentally ill, who consequently were detained with other prisoners.

Despite some improvements with regard to access to food and water, police station detention cells generally did not comply with international standards and lacked sanitation facilities and bedding. The lack of detention cells at some police stations discouraged the initiation of formal charges against detained suspects.

The government permitted prison visits by the International Committee of the Red Cross and independent human rights observers. The Ombudsman's Office was able to conduct detainee monitoring in Dili.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, there were many instances in which these provisions were violated, often because magistrates or judges were unavailable.

Role of the Police and Security Apparatus.—The president is commander-in-chief of the armed forces, but the chief of defense, the F-FDTL's senior military officer, exercised effective day-to-day command. Civilian secretaries of state for public security and defense oversaw the PNTL and F-FDTL, respectively.

UNMIT continued efforts to reform, restructure, and rebuild the PNTL in the wake of its collapse during the political crisis of 2006. A central element was a "screening" to ensure that each of the approximately 3,000 PNTL officers was checked for integrity and past crimes or misbehavior. Following screening, officers were to go through renewed training and a six-month UNPOL mentoring program. By year's end approximately 2,900 officers had completed the UNPOL program.

Each of the country's 13 districts has a district PNTL commander who normally reports to the PNTL general commander. In spite of improvements due to the UNPOL training, the PNTL as an institution remained poorly equipped and undertrained, subject to numerous credible allegations of abuse of authority, mishandling of firearms, and corruption. An opposition parliamentarian and an international NGO criticized the emphasis on a paramilitary style of policing, which includes highly armed special units and does not sufficiently delineate between the military and the police.

Some police officers did not pass the vetting process and were on suspension pending further investigation. UNMIT conducted human rights training sessions for senior PNTL personnel, and the PNTL received training from bilateral partners.

Efforts were made to strengthen internal PNTL accountability mechanisms. A Professional Standards and Discipline Office (PSDO) was established as early as 2004. Between November 2008 and June, the number of pending cases in the PSDO decreased from 373 to 42. The PSDO reportedly found almost half the cases it investigated to be "substantiated" and forwarded its findings to the appropriate authorities; however, it was unclear what actions, if any, these authorities took. At the district level there were serious obstacles to the functioning of the PSDO. PSDO officers were appointed by, and reported to, the PNTL district commander. Persons with complaints about police behavior experienced obstacles when attempting to report violations including repeated requests to return at a later date or to submit their complaint in writing. The Organic Police Law promulgated in February does not provide for guaranteed participation from the civilian sector in police oversight.

On February 26, the UN Security Council instructed UNMIT to begin handing over primary policing responsibilities to the PNTL once PNTL personnel in a particular district demonstrated the ability to perform those responsibilities adequately. Of the 13 districts, handovers occurred in Lautem (May), Oecussi (June), Manatuto (July), and Viqueque (December).

More than 750 ISF personnel from Australia and New Zealand supported the police and security forces.

Arrest Procedures and Treatment While in Detention.—The law requires judicial warrants prior to arrests or searches, except in exceptional circumstances; however, this provision was often violated. The extreme shortage of prosecutors and judges outside of the capital contributed to police inability to obtain required warrants.

Government regulations require a hearing within 72 hours of arrest to review the lawfulness of an arrest or detention and also provide the right to a trial without undue delay. During these hearings the judge may also determine whether the suspect should be released because evidence is lacking or the suspect is not considered a flight risk. The countrywide shortage of magistrates meant that police often made decisions without legal authority as to whether persons arrested should be released or detained after 72 hours in custody. This contributed to an atmosphere of lawlessness and impunity. Judges may set terms for conditional release, usually requiring the suspect to report regularly to police.

The law provides for access to legal representation at all stages of the proceedings, and provisions exist for providing public defenders to indigent defendants at no cost. Public defenders were in short supply. Most were concentrated in Dili and Baucau, with other areas lacking the same level of access. Many indigent defendants relied on lawyers provided by legal aid organizations. A number of defendants who were assigned public defenders reported that they had never seen their lawyer, and there were concerns that some low priority cases were delayed indefinitely while suspects remained in pretrial detention.

The pretrial detention limit of six months and the requirement that such detentions be reviewed every 30 days need not apply in cases involving certain serious crimes; however, the 30-day review deadline was missed in a large number of cases involving less serious crimes, and a majority of the prison population consisted of pretrial detainees.

e. Denial of Fair Public Trial.—The law provides that judges shall perform their duties “independently and impartially” without “improper influence” and requires public prosecutors to discharge their duties impartially. However, the country’s judicial system faced a wide array of challenges including concerns about the impartiality of some judicial organs, a severe shortage of qualified personnel, a complex and multisourced legal regime, and the fact that the majority of the population does not speak Portuguese, the language in which the laws were written and the courts operate. Access to justice was notably constrained.

The court system consisted of a Court of Appeal and four district courts (Dili, Bacau, Suai, and Oecussi). The constitution calls for a Supreme Court and high administrative, tax, and audit courts as well as other administrative courts of first instance. It also allows for military courts and maritime and arbitration courts. At year’s end none of these courts had been established. Until a Supreme Court is established, the Court of Appeal remains the country’s highest tribunal. The Ministry of Justice is responsible for administration of the courts and prisons and also provides defense representation. The prosecutor general—independent of the Ministry of Justice—is responsible for initiating indictments and prosecutions.

Progress in establishing justice sector institutions and recruiting and training qualified judges, prosecutors, and defense attorneys was slow. By year’s end, 14 judges, 14 prosecutors, and 11 public defenders of Timorese nationality were assigned to the country’s judicial institutions. However, the system remained heavily dependent on international judges, prosecutors, and public defenders.

Judges, prosecutors, and public defenders assigned to other districts outside Dili often did not reside in these areas. Their intermittent presence continued to severely hamper the functioning of the judiciary outside the capital.

The trial process often was hindered by nonattendance of witnesses due to lack of proper notification or lack of transportation. The shortage of qualified prosecutors and technical staff in the Prosecutor General’s Office hampered its work and resulted in a large case backlog. International prosecutors continued to handle sensitive cases related to the 2006 crisis. At year’s end there was a nationwide backlog of approximately 5,200 cases. The length of time for cases to come to trial varied significantly, with some delayed for years and others tried within months of accusations.

Trial Procedures.—The law provides for the right to a fair trial; however, the severe shortages of qualified personnel throughout the system led to some trials that did not fulfill prescribed legal procedures. Trials are before judges. Except in sensitive cases, such as crimes involving sexual assault, trials are public; however, this principle was inconsistently applied. Defendants have the right to be present at trials and to consult with an attorney in a timely manner. Attorneys are provided to indigent defendants. Defendants can confront hostile witnesses and present other witnesses and evidence. Defendants and their attorneys have access to government-held evidence. Defendants enjoy a presumption of innocence and have a right of appeal to higher courts.

The legal regime was complex and inconsistently applied, but the government adopted a new criminal procedure code and a penal code; the latter came into force on June 7. The criminal procedure code was translated into Tetum (the language spoken most widely in the country), but the penal code was available only in Portuguese.

The Court of Appeal operated primarily in Portuguese. The UN regulations, many of which remained in force, were available in English, Portuguese, Indonesian, and Tetum. Laws enacted by parliament, intended to supplant Indonesian laws and UN regulations, were published in Portuguese but were seldom available in Tetum. Litigants, witnesses, and criminal defendants often were unable to read the new laws. Trials are required to be conducted in Portuguese and Tetum. However, the quality of translation provided in court varied widely, and translations into Tetum were often incomplete summaries.

On July 6, a witness protection law came into force, but protection arrangements remained lacking. In many violent crimes, witnesses were unwilling to testify because of the high potential for retribution against them or their families. Court personnel also reported increased concern regarding their own safety.

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

Civil Judicial Procedures and Remedies.—Civil judicial procedures were beset by the same problems encountered by the judicial system as a whole. The ombudsman for human rights and justice can sue government agencies/agents for alleged human rights abuses; however, the ombudsman's approach has been to refer allegations of abuse to the prosecutor general or the leadership of the PNTL or F-FDTL.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

A 2003 land law broadly defines what property belongs to the government and was criticized as disregarding many private claims.

Many Dili residents arrived as internal migrants and occupied empty houses or built houses on empty lots. The majority of properties in Dili are deemed state property, and in previous years the government evicted persons from land identified as state property at times with little notice and with no due process.

Section 2. Respect for Civil Liberties, Including:

Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. Individuals generally could criticize the government without reprisal. The criminal code, which came into force on June 7, decriminalizes defamation. A defamation case brought by the minister of justice against a journalist was dropped on June 15.

There were three daily newspapers, three weeklies, and several newspapers that appeared sporadically. All frequently criticized the government and other political entities editorially.

Television and radio broadcasts were the primary sources for news. However, there was often no reception outside Dili and district capitals, and broadcasts were often irregular due to technical or resource problems. Many persons did not have access to television or radio.

On September 2, members of the media complained that the PNTL interfered with their ability to cover the arrest of three individuals at a political event on August 31.

In December a journalist with *Tempo Semanal* was subpoenaed as a witness in the trial of the 28 suspects in the February 2008 attack on President Ramos-Horta; the journalist had conducted a telephone interview with an alleged leader of the attackers after the events (see section 1.a.). The journalist invoked his rights to protect his sources, and the judge permitted him to leave without providing testimony.

Internet Freedom.—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Internet access was extremely limited. According to International Telecommunication Union statistics for 2008, approximately 0.2 percent of the country's inhabitants used the Internet.

Academic Freedom and Cultural Events.—The government generally did not restrict academic freedom or cultural events. Academic research on Tetum and other indigenous languages must be approved by the National Language Institute.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The law on assembly and demonstrations establishes guidelines to obtain permits to hold demonstrations and requires police be notified four days in advance of any demonstration or strike. The law also stipulates that demonstrations cannot take place within 100 yards of government buildings or facilities, diplomatic facilities, or political party headquarters. In practice demonstrations were allowed to take place without the requisite advance notification, and the 100-yard regulation was rarely observed. However, on August 31, the PNTL detained three individuals at a political event for not having a proper permit and for demonstrating too close to government-owned port facilities. The detainees were released within 72 hours, and there were no reports of mistreatment.

Freedom of Association.—The constitution provides for freedom of association, and the government generally respected this right in practice.

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

Societal Abuses and Discrimination.—Outside the capital, non-Catholic religious groups were at times regarded with suspicion. There were reports that Catholics who converted to other religions were subjected to harassment and abuse by community members, and there were instances of Protestant churches being harassed during the year.

There was no indigenous Jewish population, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf/.

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

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Travel by road to the western enclave of Oecussi required visas and lengthy stops at Timorese and Indonesian checkpoints at the border crossings.

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

Internally Displaced Persons (IDPs).—In June the government formally closed the last of the IDP camps set up after the 2006 political crisis displaced an estimated 150,000 individuals. Approximately 3,000 persons remained in transitional shelters pending final resettlement. The Ministry of Social Solidarity administered reintegration assistance in coordination with local and international NGOs.

Protection of Refugees.—The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. The laws provide for the granting of asylum or refugee status, and the government established a system for providing protection to refugees. The government granted refugee status or asylum in the past; however, there were concerns that the country's regulations governing asylum and refugee status may preclude genuine refugees from proving their eligibility for such status. For example, persons who wish to apply for asylum have only 72 hours to do so after entry into the country. Foreign nationals already present in the country have only 72 hours to initiate the process after the situation in their home country becomes too dangerous for them to return safely. A number of human rights and refugee advocates maintained that this time limit contravened the 1951 convention. These advocates also expressed concern that no written explanation is required when an asylum application is denied. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

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

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

Elections and Political Participation.—On October 9, voters chose village leaders in local elections held in 442 Sucos (villages) throughout the country.

The president and parliament were elected in generally free and fair national elections in 2007. The government headed by Prime Minister Gusmao is a four-party coalition controlling 37 seats in the 65-seat parliament.

There were 19 women in parliament. Women held three senior ministerial positions—finance, justice, and social solidarity—one vice-minister position, and one secretary of state position.

The country's small ethnic minority groups were well integrated into society. The number of members of these groups in parliament and other government positions was uncertain.

Section 4. Official Corruption and Government Transparency

The law provides for criminal penalties for official corruption; however, the government did not implement the law effectively, and officials frequently engaged in corrupt practices. By law the Office of the Ombudsman for Human Rights and Justice is the institution charged with leading national anticorruption activities and has the authority to refer cases for prosecution.

The Ombudsman's Office was investigating several high-profile corruption cases at year's end, including accusations against the prime minister, involving government contracts awarded to a company affiliated with his daughter, and the minister of justice.

The country does not have financial disclosure laws. Prime Minister Gusmao demanded that all cabinet officials in his government complete financial disclosure documents, but by year's end none had done so.

The law stipulates that all legislation, Supreme Court decisions (when the court is established), and decisions made by government bodies must be published in the official gazette. If not published they are null and void. Regulations also provide for public access to court proceedings and decisions and the national budget and accounts. In practice there were concerns that public access to information was constrained. For example, the official gazette was published only in Portuguese, although by law it is to be published in Tetum as well. Moreover, its irregular publishing schedule and varying cost meant that few journalists, public servants, or others had regular access to it or knew how to access it.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. NGOs also played an active role in assisting and advising in the development of the country. The government generally cooperated with these organizations, but during the year there were instances of security authorities preventing or resisting efforts to monitor human rights compliance.

The UN Integrated Mission in Timor-Leste, originally established pursuant to a UN Security Council (UNSC) resolution with its mandate extended by the UNSC of February 26, continued to play an important role in the country's development and cooperated closely with the government.

The Office of the Ombudsman is responsible for the promotion of human rights, anticorruption, and good governance, and the ombudsman has the power to investigate and monitor human rights abuses, corruption, and governance standards and make recommendations to the relevant authorities. The Ombudsman's Office was located in Dili and had limited ability to conduct outreach or other activities in the districts. The Human Rights Monitoring Network, made up of 10 NGOs, closely cooperated with the ombudsman.

In July 2008 President Ramos-Horta and Indonesian President Yudhoyono publicly accepted the bilateral Commission on Truth and Friendship's (CTF) finding that gross human rights violations had been committed during and after the 1999 independence referendum. The report assigned "institutional responsibility" for such violations to the Indonesian Armed Forces. Presidents Yudhoyono and Ramos-Horta also accepted the report's other findings, conclusions, and recommendations. Neither government pursued individuals responsible for abuses at this time. On December 14, parliament adopted a resolution acknowledging the work and reports of the CTF and the Commission for Reception, Truth, and Reconciliation. The resolution in-

structed that legislation be drafted to implement the recommendations of the two reports and to establish an autonomous body to carry them out.

On August 30, the government released indicted war criminal Martenus Bere from detention without charge, trial, or proper court authorization. Bere, an Indonesian citizen, was the leader of the Lauksaur militia at the time of the 1999 popular consultation that put Timor-Leste on the path to formal independence from Indonesia. In 2003 the UN Special Crimes Unit indicted him for his role in the 1999 Suai church massacre, in which at least 30 civilians, including three priests, were killed as the church where they had taken refuge was attacked with grenades and burned. The crimes against humanity charges against Bere included murder, extermination, enforced disappearance, torture, inhumane acts, and rape. Article 160 of the constitution makes illegal "acts committed between the 25th of April 1974 and the 31st of December 1999 that can be considered crimes against humanity." The PNTL had detained Bere in Suai on August 8 after he entered the country from Indonesian West Timor.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Government regulations prohibit all forms of discrimination. Nonetheless, violence against women was a problem, and discrimination against women, persons with disabilities, and members of minority groups occurred.

Women.—Gender-based violence remained a serious concern. Although rape is a crime, failures to investigate or prosecute cases of alleged rape and sexual abuse were common as were long delays. Authorities reported that the backlog of court cases led some communities to address rape accusations through traditional law, which does not always provide justice to victims. The definition of rape under the June 7 penal code appears broad enough to make spousal rape a crime, although that definition had not been tested in the courts.

Key legislation that would address legal gaps or establish clear guidelines to handle gender-based violent crimes had not been adopted by year's end.

Domestic violence against women was a significant problem often exacerbated by the reluctance of authorities to respond aggressively. Cases of domestic violence and sexual crimes generally were handled by the PNTL's Vulnerable Persons Units (VPUs). Women's organizations assessed VPU performance as variable, with some officials actively pursuing cases and others preferring to handle them through mediation or as private family matters. VPU operations were severely constrained by lack of support and resources. Police at times came under pressure from community members to ignore cases of domestic violence or sexual abuse.

The new penal code makes "sexual exploitation of a third party" criminal but does not criminalize prostitution.

There was no law prohibiting sexual harassment, and sexual harassment was reportedly widespread, particularly within some government ministries and the police.

Women's access to family-planning information, education, and supplies was limited principally by economic considerations. Contraceptive use was low, although the Ministry of Health and NGOs promoted both natural and modern family planning methods, including the distribution of intrauterine devices, injectable contraceptives, and condoms. Maternal mortality was estimated at 660 deaths per 100,000 births, and less than one-quarter of deliveries took place with a skilled birth attendant. Both women and men had equal access to diagnostic and treatment services for sexually transmitted infections, including HIV.

Some customary practices discriminate against women. For example, in some regions or villages where traditional practices hold sway, women may not inherit or own property. Traditional cultural practices, such as payment of a bride price and occasionally polyandry, also occurred. Women were also disadvantaged in pursuing job opportunities at the village level.

The secretary of state for gender issues in the Prime Minister's Office is responsible for the promotion of gender equality. UNMIT's Gender Affairs Unit also monitored discrimination against women.

Women's organizations offered some assistance to female victims of violence, including shelters for victims of domestic violence and incest, a safe room at the national hospital for victims of domestic violence and sexual assault, and escorts to judicial proceedings.

Children.—Children acquire citizenship both through birth within the territory of the country and by having a citizen parent. A Central Civil Registry registers a child's name at birth and issues birth certificates. The rate of birth registration was low.

The constitution stipulates that primary education shall be compulsory and free; however, no legislation had been adopted establishing the minimum level of education to be provided, nor had a system been established to ensure provision of free

education. According to UN statistics, approximately 20 percent of primary school-age children nationwide were not enrolled in school; the figures for rural areas were substantially lower than those for urban areas.

In rural areas heavily indebted parents sometimes provided their children as indentured servants as a way to settle the debt. If the child was a girl, the receiving family may also demand any dowry payment normally owed to the girl's parents.

There is no clearly defined age below which sex is by definition nonconsensual. Violence against children and child sexual assault was a significant problem. Some commercial sexual exploitation of minors occurred. The June penal code describes a vulnerable victim for purposes of rape as a "victim age less than 17 years" and provides an aggravated sentence. The penal code separately addresses "sexual abuse of a minor," which is described as one "age less than 14 years," and also separately addresses "sexual acts with an adolescent," which it defines as "a minor age between 14 and 16 years." The penal code also makes both child prostitution and child pornography crimes and defines a "child" for purposes of those provisions as a "minor age less than 17 years." The penal code also criminalizes abduction of a minor, although it does not define what constitutes a minor for purposes of that section.

Following the closing of IDP camps during the year (see section 2.d.), only a small number of children remained in transitional settlements pending permanent resettlement of their families.

Trafficking in Persons.—The Immigration and Asylum Act prohibits trafficking of adults and children for prostitution or for forced labor; however, there were reports that persons were trafficked to and within the country.

A local NGO estimated that more than 100 foreign prostitutes in the capital might be victims of trafficking, either forced into the commercial sex industry or subjected to exploitative conditions they had not agreed to. Several establishments in the capital were known commercial sex operations and were suspected of involvement in trafficking.

Although most trafficking victims in the country were in the sex industry, two men were rescued in the country's waters after being subjected to forced labor aboard a foreign fishing vessel.

The June penal code criminalizes "human trafficking," "enslavement," and the "sale of persons."

In July police conducted raids on two bars/brothels, freeing eight women identified as possible trafficking victims. However, credible reports indicated that some police and immigration officials colluded with such establishments or with those who trafficked foreign women into the country to work in them.

The government cooperated with various international organizations and local NGOs to assist trafficking victims. The government also provided documentation and exit assistance to three trafficked persons returning voluntarily to their home countries. The government granted temporary residence, on humanitarian grounds, to two trafficked persons who did not wish to return to their countries of origin.

The government facilitated a seminar for police, military, civil servants, NGOs, and government officials to increase understanding of international antitrafficking conventions and to combat widespread ignorance about the trafficking issue. High-level officials served as keynote speakers at the workshops, and antitrafficking and gender-based violence posters containing emergency contacts for victims were distributed throughout the districts to assist potential victims.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—Although the constitution protects the rights of persons with disabilities, the government had not enacted legislation or otherwise mandated accessibility to buildings for persons with disabilities, nor does the law prohibit discrimination against persons with disabilities. There were no reports of discrimination against persons with disabilities in employment, education, or the provision of other state services; however, in many districts children with disabilities were unable to attend school due to accessibility problems.

Training and vocational initiatives did not address the needs of persons with disabilities. In the past some persons with mental disabilities faced discriminatory or degrading treatment due in part to a lack of appropriate treatment resources or lack of referral to existing resources; it was not clear whether this situation had improved. Mentally ill persons were imprisoned with the general prison population and were denied needed psychiatric care. An office in the Ministry of Social Solidarity is responsible for protecting the rights of persons with disabilities.

National/Racial/Ethnic Minorities.—Some tensions between persons from the eastern districts (Lorosae) and persons from the western districts (Loromonu) con-

tinued, although this was greatly diminished from levels witnessed during the 2006 political crisis.

Relations were generally good between the ethnic majority and members of several small ethnic minority groups including ethnic Chinese (who constitute less than 1 percent of the population) and ethnic-Malay Muslims.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—The law makes no reference to homosexual activity. Gays and lesbians were not highly visible in the country, which was predominantly rural, traditional, and religious. According to the East Timor Law and Justice Bulletin (ETLJB), the principal international NGO that runs an HIV-AIDS transmission reduction program excludes gays from its program. Aside from the ETLJB report, there were no formal reports of discrimination based on sexual orientation, due in part to limited awareness of the issue and a lack of formal legal protections.

Other Societal Violence or Discrimination.—There were no formal reports of discrimination based on HIV/AIDS status.

Section 7. Worker Rights

a. The Right of Association.—The country has a labor code based on the International Labor Organization's standards. The law permits workers to form and join worker organizations without prior authorization. Unions may draft their own constitutions and rules and elect their representatives; however, attempts to organize workers generally were slowed by inexperience, a lack of organizational skills, and the fact that more than 80 percent of the workforce was in the informal sector. There are official registration procedures for trade unions and employer organizations.

The law provides for the right to strike, but few workers exercised this right during the year. The law on assembly and demonstrations could be used to inhibit strikes but was not used in this way.

The Immigration and Asylum Act prohibits foreigners from participating in the administration of trade unions.

b. The Right to Organize and Bargain Collectively.—While collective bargaining is permitted, workers generally had little experience negotiating contracts, promoting worker rights, or engaging in collective bargaining and negotiations.

There are no formal export processing zones.

c. Prohibition of Forced or Compulsory Labor.—Government regulations prohibit forced or compulsory labor, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The labor code generally prohibits children under 18 from working; however, there are circumstances under which children between the ages of 15 and 18, as well as children under 15, can work. The minimum age does not apply to family-owned businesses, and many children worked in the agricultural sector. Child labor in the informal sector was a major problem. In practice enforcement of the labor code outside of Dili was limited.

e. Acceptable Conditions of Work.—The labor code does not stipulate a minimum wage. The labor code provides for a standard workweek of 40 hours, standard benefits such as overtime and leave, and minimum standards of worker health and safety. A National Labor Board and a Labor Relations Board exist, and there are no restrictions on the rights of workers to file complaints and seek redress. Workers have the right to remove themselves from hazardous conditions without jeopardizing employment; however, it was not clear whether they could avail themselves of this right in practice.

TONGA

The Kingdom of Tonga is a constitutional monarchy with a population of approximately 102,000. Political life is dominated by King Siaosi (George) Tupou V, the nobility, and a few prominent commoners. The most recent election for "people's representative" seats in Parliament, held in April 2008, was deemed generally free and fair. There were several nascent political parties. A state of emergency declared following a 2006 riot in the capital of Nuku'alofa remained in effect but limited in scope to Nuku'alofa. Civilian authorities generally maintained effective control of the security forces.

Citizens lacked the ability to change their government. The government at times restricted media coverage of certain political topics. Government corruption was a problem, and discrimination against women continued.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and the government generally respected these prohibitions in practice.

Prison and Detention Center Conditions.—Prison and detention center conditions generally met international standards, and the government permitted visits by family members and church representatives. The Tonga Red Cross (TRC) monitored prison conditions through quarterly visits to the main prison. The government permitted monitoring visits by international human rights observers, but there were no such visits during the year.

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

Role of the Police and Security Apparatus.—The security apparatus consists of the Tonga Defense Services (TDS) and a police force. The minister of defense controls the TDS, which is responsible for external security and, under the state of emergency, shared domestic security duties with the police.

The minister of police and prisons directs the police force of approximately 470 persons. Incidents of bribe taking and other forms of corruption in the police force reportedly occurred. Reports of corruption and other public complaints are referred to a specific police office that conducts internal investigations and, if necessary, convenes a police tribunal. Entry-level police training included training on corruption, ethics, transparency, and human rights.

Arrest Procedures and Treatment While in Detention.—The law provides for the right to judicial determination of the legality of arrest, and this was observed in practice during the year. Under normal circumstances police have the right to arrest detainees without a warrant, but detainees must be brought before a local magistrate within 24 hours. In most cases magistrates set bail. The law permits unlimited access by counsel and family members to detained persons. Indigent persons could obtain legal assistance from a community law center (CLC). However, the CLC did not have a dedicated source of funding during the year and was dependent on donations.

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice. The highest-ranking judges historically have been foreign nationals. Judges hold office “during good behavior” and otherwise cannot be dismissed during their terms.

The court system consists of the Privy Council, the Court of Appeal, the Supreme Court, the police magistrate’s court, and the Land Court. The king’s Privy Council presides over cases relating to disputes regarding titles of nobility and estate boundaries and hears appeals from the Land Court.

The TDS and the police force both have tribunals, which cannot try civilians.

Trial Procedures.—The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are public, and defendants have the option to request a seven-member jury. Defendants are presumed innocent, may question witnesses against them, and have access to government-held evidence. They have the right to be present at their trials and to consult with an attorney in a timely manner. Public defenders are not provided, but the CLC provided free legal advice and representation in court. Local lawyers occasionally took pro bono cases. Defendants have the right of appeal. The law extends these rights to all citizens.

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

Civil Judicial Procedures and Remedies.—There is an independent and impartial judiciary in civil matters. Any violation of a human right provided for in the law can be addressed in the courts.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of speech and of the press, but the government did not always respect these rights in practice.

On March 25, a Supreme Court jury found member of Parliament (MP) Sione Teisina Fuko and four other defendants not guilty of sedition charges relating to statements they made prior to the 2006 riot. The chief justice had dismissed the charges against a sixth man in the case the previous week, citing insufficient evidence.

In July the Court of Appeal heard the appeal of MPs 'Akilisi Pohiva, 'Isileli Pulu, Clive Edwards, and 'Ulititi Uata, and former MP Lepolo Taunisila, who were charged in 2007 with sedition in relation to speeches they made at political rallies just prior to the 2006 riot. On September 9, the court ordered that all indictments against four of the five politicians be dismissed. The court stated that the prosecution had not established that the four appellants had conspired to encourage violence. The court upheld one individual charge against Edwards of "speaking seditious words"; that case was awaiting trial at year's end.

Government-controlled media outlets were criticized for exercising self-censorship. Since the political campaigns of 2008, the Tonga Broadcasting Commission (TBC)'s board has directed that all programming be reviewed by TBC board-appointed censors prior to broadcast. During parliamentary debates in September, MP Clive Edwards told the House that a prerecorded radio program in which he participated still had not been broadcast a week later. MP 'Akilisi Pohiva also claimed that parts of a speech he made were edited when it was rebroadcast by the TBC.

Media access to parliamentary debates also was restricted. In June 2008 the speaker of Parliament announced that he would allow only one reporter, from the TBC, into Parliament during debates, and only for one hour. The print media must wait for the official minutes, usually published several days after Parliament closes.

While there was little editorializing in the government-owned media, opposition opinion in the form of letters to the editor, along with government statements and letters, appeared regularly. From time to time, the national media carried comments, including some by prominent citizens, critical of government practices and policies.

Internet Freedom.—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Lack of infrastructure limited access to a certain extent, but there were Internet cafes available in the larger towns in all three of the country's main island groups. The International Telecommunication Union reported that approximately 8 percent of the country's inhabitants used the Internet in 2008.

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

b. Freedom of Peaceful Assembly and Association.—*Freedom of Assembly.*—The constitution provides for freedom of assembly, and the government generally respected this right in practice. Revised emergency powers regulations, issued in September 2008 and renewed every 30 days thereafter, do not explicitly prohibit public meetings or gatherings.

Trials continued during the year for persons charged with offenses relating to the 2006 riot. As of March (the latest statistics available), of the 303 persons indicted, 107 were convicted, 18 were acquitted, 26 had the charges against them withdrawn, 31 were awaiting trial, three were remitted back to the magistrate's court, and 118 were placed in the adult diversion program, whereby they admitted to the offense and were directed to perform community service for a specified period and maintain good behavior.

Freedom of Association.—The constitution provides for freedom of association, and the government generally respected this right in practice.

c. Freedom of Religion.—The constitution provides for freedom of religion, and the government generally respected this right in practice. However, the dominant Christian religion shows its influence in a constitutional provision that Sunday is to be "kept holy" and that no business can be conducted "except according to law." Although an exception was made for bakeries, hotels, resorts, and restaurants that are part of the tourism industry, the Sunday prohibition was otherwise enforced strictly for all businesses, regardless of the business owner's religion.

TBC guidelines require that religious programming on Radio Tonga be confined "within the limits of the mainstream Christian tradition." Although the TBC allowed the Church of Jesus Christ of Latter-day Saints and the Baha'i Faith to broadcast their programs on TV Tonga and Radio Tonga, it prohibited discussion of

their founders and the basic tenets of their faiths. The government-owned but privately operated newspaper occasionally carried news articles about Baha'i activities or events, as well as those of other faiths.

There was an unconfirmed report that in May two New Zealand-based Falun Gong practitioners visiting Tonga were questioned by officials about their activities while in the country.

Societal Abuses and Discrimination.—There were no reports of societal abuses or discrimination against religious groups, including anti-Semitic acts. There was no known resident Jewish community.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and prior to the declaration of a state of emergency in 2006, the government generally respected these rights in practice. The continuing emergency powers regulations authorize the police and military to restrict free movement in and around a “proclaimed area” of Nuku'alofa, but these restrictions were rarely enforced.

The occasion did not arise during the year for cooperation with the UN High Commissioner for Refugees or other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law does not prohibit forced exile, but the government did not employ it in practice.

Protection of Refugees.—The country is not a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. Its laws do not provide for the granting of asylum or refugee status, and the government has not established a system for providing protection to refugees. In principle the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion, but no persons were known to have applied for refugee status or temporary protection during the year.

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

Citizens do not have the ability to change their leaders or system of government. The king and 33 hereditary nobles dominated government. The king appoints the prime minister. He also appoints and presides over the Privy Council (called the cabinet when the king or regent is not presiding), which makes major policy decisions. The council is composed of as many as 14 ministers and two regional governors; it includes nobles and commoners, all serving at the king's pleasure.

The unicameral Parliament consists of the cabinet members, nine nobles elected by their peers, and nine representatives elected by the general population. The king appoints the speaker from among the representatives of the nobles. Cabinet members and nobles often voted as a bloc.

In 2007 a tripartite committee of cabinet, nobles', and people's representatives issued a report to Parliament recommending major changes to the political system that would result in a sizable majority of people's representatives in Parliament. Parliament endorsed the committee's report in general but put off implementation of recommended reforms until 2010. On January 5, a five-member Constitutional and Electoral Reform Commission (CEC) was officially established, with a parliamentary mandate to recommend, and draft legislation to implement, political and electoral reforms. On November 5, the CEC submitted its final report and recommendations to the Privy Council and Parliament. By year's end Parliament had debated and endorsed amendments to some of the recommendations.

Elections and Political Participation.—Citizens 21 years or older and resident in the country may vote. The April 2008 elections for Parliament's nine people's representatives were deemed generally free and fair and resulted in a strong showing for prodemocracy candidates.

Nobles and cabinet members associated with the royal family have traditionally dominated the Parliament and government. For several decades a democracy movement has been building, and since 2005 three proreform political parties have been registered.

There were no women in the 34-member Parliament. A woman may become queen, but the constitution forbids a woman to inherit hereditary noble titles or become a chief. There was one female government minister.

The single minority cabinet minister resigned in August; there were no other members of minorities in the government.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption. The government generally implemented the law, but officials often engaged in corrupt practices with impunity, and corruption remained a serious problem. In February 2008 the Office of the Auditor General began reporting to Parliament directly, instead of to the prime minister. The Office of the Anti-Corruption Commissioner is empowered to investigate official corruption.

There were unconfirmed reports of government corruption during the year. In November a commission of inquiry into the August 5 sinking of the government-owned ferry MV Princess Ashika revealed that cabinet had resolved to purchase the MV Princess Ashika before it sought the endorsement of the government's procurement committee. Government preferences appeared to benefit unfairly businesses associated with government officials, nobles, and the royal family. There is no law requiring financial disclosure for public officials. The royal family continued to exert significant influence over public finances.

The law does not specifically allow for public access to government information, and such access was a problem, especially when the government deemed the information sensitive.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

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

Government offices include a commission on public relations that investigates and seeks to resolve complaints about the government.

During the year representatives of regional human rights organizations visited the country to conduct training for local counterparts and provide assistance in setting up local human rights organizations.

The government cooperated with international governmental organizations and permitted visits by representatives of the UN and other international bodies; there were some such visits during the year.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law confirms the special status of members of the royal family and the nobility. While social, cultural, and economic facilities were available to all citizens regardless of race and religion, members of the hereditary nobility had substantial advantages, including control over most land and a generally privileged status.

Women.—Rape is punishable by up to 15 years' imprisonment. The law does not recognize spousal rape. The incidence of rape appeared to be infrequent but increasing, although there were no reliable statistics. Rape cases were investigated by the police and prosecuted under the penal code. Police received at least two reports of rape during the year, but complete statistics were not available by year's end; women's rights nongovernmental organizations (NGOs) reported that the number of complaints they received of sexual violence against women was higher.

The police Domestic Violence Unit, together with various NGOs, including the National Center for Women and Children, the Women and Children Crisis Center (a new NGO established in November), and the Salvation Army, conducted public awareness and prevention campaigns against domestic violence. Statistics compiled by the National Center for Women and Children and the Women and Children Crisis Center indicated that 329 persons sought assistance from these organizations during the year. Of these, 76 percent were women, and 15 percent were children under the age of 12 years. Domestic violence was the leading complaint for women, while neglect and physical abuse were the leading reasons for seeking assistance for children. During the year four women were killed in domestic violence incidents. Three of the accused perpetrators were tried and convicted by year's end; two received life sentences, and the third was sentenced to 25 years' imprisonment.

The law does not address domestic violence specifically, but domestic violence can be prosecuted under laws against physical assault. During the year the Police Domestic Violence Unit initiated a "no drop" policy in complaints of domestic assault, and these cases proceed to prosecution in the magistrate's court. The "no drop" policy was introduced because many women were reluctant to press charges against their spouses due to cultural constraints. The police received 459 reports of domestic violence during the year. Following reports of abuse, victims received counseling from Police Domestic Violence Unit officers. Perpetrators were also provided coun-

seling. The police worked with the National Center for Women and Children as well as the Women and Children Crisis Center to provide shelter for abused women. The Free Wesleyan Church operated a hotline for women in trouble, and the Salvation Army provided counseling and rehabilitation programs.

Prostitution is not illegal, but activities such as soliciting in a public place, procuring, operating a brothel, and trading in women are criminal offenses. There were reports of women and underage girls engaging in commercial sexual activities.

Sexual harassment is not a crime, but physical sexual assault could be prosecuted as indecent assault. Sexual harassment of women sometimes occurred, based on complaints received by the police's Domestic Violence Unit.

Couples and individuals have the right to decide freely and responsively the number, spacing, and timing of their children. Free information about and access to contraception were provided by public hospitals and health centers and by a regional NGO's clinic. However, under a Ministry of Health policy, a woman is not permitted to undergo a tubal ligation at a public hospital without the consent of her husband or, in his absence, her male next of kin. Public hospitals and health centers also provided free obstetric and postpartum care. Women and men received equal access to diagnosis and treatment for sexually transmitted infections, including HIV.

Inheritance laws, especially those concerned with land, discriminate against women. Women can lease land, but inheritance rights pass through the male heirs. Under the inheritance laws, the claim to a father's estate by a male child born out of wedlock takes precedence over the claim of the deceased's widow or daughter. If there are no male relatives, a widow is entitled to remain on her husband's land as long as she does not remarry or engage in sexual intercourse.

The Office of Women within the Ministry of Education, Women, and Culture is responsible for facilitation of development projects for women. During the year the office assisted women's groups in setting up work programs.

Women who rose to positions of leadership often had links with the nobility. Some female commoners held senior leadership positions in business and government, including that of governor of the Reserve Bank.

The National Center for Women and Children and the Women and Children Crisis Center focused on domestic abuse and improving the economic and social conditions of women. Both offered counseling to women in crisis and also operated safehouses for women and children. Other NGOs, including Ma'a Fafine Moe Famili (For Women and Families, Inc.) and the Tonga National Women's Congress, promoted human rights, focusing on the rights of women and children. Several religiously affiliated women's groups also advocated for women's legal rights.

Children.—Birth in the country does not confer citizenship. Citizenship is derived from one's parents, or from the citizen parent if only one parent is a citizen.

There were some reports of child abuse during the year, including eight reports of child battery. The perpetrators in two cases were convicted and fined in the magistrate's court. One person was charged with manslaughter in the death of a four-year-old child; the case was pending at year's end.

The minimum age for consensual sex is 16 years. Violators may be charged with indecent assault on a female, which carries a maximum penalty of two years' imprisonment; indecent assault of a child carries a maximum sentence of five years. A separate provision of law prohibits carnal knowledge of a girl under age 12, with a maximum penalty of life imprisonment. The law also prohibits child pornography, with penalties of a fine of up to 100,000 pa'anga (approximately 53,475) or up to 10 years' imprisonment for individuals, and a fine of up to 250,000 pa'anga (approximately 133,700) for corporations.

Trafficking in Persons.—While the law does not specifically address trafficking in persons, violators could be prosecuted under antislavery statutes. There were no confirmed reports that persons were trafficked to, from, within, or through the country. There were anecdotal reports that some nationals of the People's Republic of China working legally and illegally in the country may have been coerced into prostitution or other forced labor. There were reports that members of foreign fishing crews solicited underage girls for commercial sex.

Persons With Disabilities.—There are no mandated provisions for services for persons with disabilities. The TRC operated a school for children with disabilities and conducted occasional home visits. There were no complaints of discrimination in employment, education, and provision of other government services.

A Ministry of Education pilot program, which began in 2007, continued during the year to assimilate children with disabilities into primary schools. The queen mother ran a center providing accommodation and meals for adults with disabilities. There were no programs to ensure access to buildings for persons with disabilities, and

in practice most buildings were not accessible. There was an NGO advocating on behalf of persons with disabilities.

There was no specific government agency with responsibility for protecting the rights of persons with disabilities.

National/Racial/Ethnic Minorities.—According to the Ministry of Labor, Commerce, and Industries, ownership and operation of food retail stores in the country has been legally restricted to citizens since 1978. Despite this policy, the retail sector in many towns was dominated by Chinese nationals, who were also moving into unrestricted sectors of the economy. There were reports of crime and societal discrimination targeted at members of the Chinese minority.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Sodomy is illegal, with a maximum penalty of 10 years' imprisonment, but there were no reports of prosecutions directed at lesbian, gay, bisexual, or transgender persons under this provision. Persons who engaged in openly homosexual behavior faced societal discrimination. There were no reports of violence against persons based on sexual orientation or gender identity.

Other Societal Violence or Discrimination.—There were no reports of discrimination or violence against persons based on HIV/AIDS status.

Section 7. Worker Rights

a. The Right of Association.—Workers gained the right to form unions under the 1964 Trade Union Act, but regulations on the formation of unions were never promulgated, and there were no official unions. An estimated 35 percent of the population were wage earners, of whom approximately 65 percent worked in the agricultural sector. The Friendly Islands Teachers Association and the Tonga Nurses Association were incorporated under the Incorporated Societies Act; however, they have no formal bargaining rights under the act. The Public Servants Association (PSA) acted as a de facto union representing all government employees.

The Trade Union Act provides workers with the right to strike, but implementing regulations were never formulated. There have been strikes, but none took place during the year.

b. The Right to Organize and Bargain Collectively.—The law permits collective bargaining, but there were no implementing regulations, and collective bargaining was not known to take place in practice.

There was no dispute resolution mechanism in place specifically for labor disputes, although persons could take their cases to court. In January 2008 the PSA filed suit against the government claiming unlawful dismissal of the PSA's secretary general from her job at the Agriculture Department in 2007. She was fired after she signed letters to the government on behalf of the PSA asserting breaches by the government of a memorandum of understanding between the government and civil servants who had gone on strike in 2005. The case was still pending at year's end.

Labor laws apply in all sectors of the economy, including the two small export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, and there were no reports that such practices occurred among citizens. There were anecdotal reports that some foreign workers may have been coerced into prostitution or other forced labor.

d. Prohibition of Child Labor and Minimum Age for Employment.—Although there is no legislation prohibiting child labor, the practice did not exist in the wage economy. According to the National Center for Women and Children and other NGOs, some school-age children were working in the informal sector in traditional family activities such as subsistence farming and fishing.

e. Acceptable Conditions of Work.—There is no minimum wage law, although there are government guidelines for wage levels set by the Ministry of Labor, Commerce and Industries. According to the Asian Development Bank, 23 percent of workers in 16 communities surveyed in 2005 earned less than 29 pa'anga (approximately \$16) per week, which did not provide a decent standard of living for a worker and family. Government workers received pay raises during the year, and their salaries generally were sufficient to provide a decent standard of living for a worker and family.

Labor laws and regulations, enforced by the Ministry of Labor, Commerce, and Industries, limited the workweek to 40 hours. The ministry enforced laws and regulations in the wage sector of the economy, particularly on the main island of Tongatapu, but enforcement in the agricultural sector and on the outer islands was less consistent.

Few industries exposed workers to significant danger, and industrial accidents were rare. The government seldom addressed industrial safety standards, including the right of workers to remove themselves from dangerous work situations.

TUVALU

Tuvalu is a parliamentary democracy with a population of approximately 10,000. In 2006 citizens elected a 15-member unicameral Parliament in generally free and fair elections. There were no formal political parties. Following the elections a loose coalition of eight members of Parliament formed a new government and selected Apisai Ielemia as prime minister. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, and the law and judiciary generally provide effective means of addressing individual instances of abuse. However, there were a few areas of concern. Traditional customs and social patterns led to and perpetuated religious and social discrimination, including discrimination against women.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution prohibits such practices, and there were no reports that government officials employed them.

Local hereditary elders exercise discretionary traditional punishment and disciplinary authority. This includes the right to inflict corporal punishment for infringement of customary rules, which can be at odds with national law. However, during the year there were no reports of such corporal punishment.

Prison and Detention Center Conditions.—Prison and detention center conditions generally met international standards, and the government permitted visits by local church representatives. The government permits monitoring visits by international human rights observers, but there were no such visits during the year.

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

Role of the Police and Security Apparatus.—Civilian authorities maintained effective control over the national police service, and the government has effective mechanisms to investigate and punish police abuse and corruption. There were no reports of impunity involving the security forces during the year.

Arrest Procedures and Treatment While in Detention.—The law permits arrests without warrants if a police officer witnesses the commission of an unlawful act or has “reasonable suspicion” that an offense is about to be committed. Police estimated that the majority of arrests were of this type. Police may hold a person arrested without a warrant for no more than 24 hours without a hearing before a magistrate. When a court issues an arrest warrant, the maximum permissible detention time before a hearing must be held is stated on the warrant and normally is one to two weeks.

There was a functioning system of bail. Arrested persons generally were promptly informed of the charges against them, although bureaucratic delays sometimes occurred because persons charged with serious offenses to be tried in the High Court must wait for its semiannual meeting. Detainees had prompt access to family members. A “people’s lawyer” (public defender) was available free of charge for arrested persons and other legal advice. Persons on the outer islands did not have ready access to legal services, however, as the people’s lawyer was based on the main island of Funafuti and only infrequently traveled to the outer islands. Nongovernmental organizations (NGOs) urged the government to provide sufficient personnel and financial resources to the Office of the People’s Lawyer to enable it to meet the needs of the public effectively on both Funafuti and the outer islands. The country had no attorneys in private practice.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected judicial independence in practice.

Trial Procedures.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Procedural safeguards are based on British common law. The law provides for a presumption of innocence. Judges conduct trials and render verdicts; there are no juries. Trials are public and defendants have the right to be present. Defendants have the right to be informed of the nature of the offenses with which they are charged, to consult with an attorney in a timely manner, and to have access to an independent public defender. They also have the right to confront witnesses, present evidence, and appeal convictions. Since 2008 the number of backlogged cases awaiting trial both on the main island of Funafuti and the outer islands decreased significantly.

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

Civil Judicial Procedures and Remedies.—There is an independent and impartial judiciary in civil matters. Individuals may bring lawsuits seeking damages for, or cessation of, human rights violations.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press. In previous years the government occasionally limited these rights in practice, but there were no reports of such government limitations during the year.

Citizens are free to criticize the government publicly or privately without reprisal, and there were no reports that the government sought to impede such criticism.

There were no private, independent media. The government's Media Department controlled the country's sole radio station.

There was no domestic television broadcast. Those few who could afford it received international satellite television broadcasts. DVDs and videotapes circulated freely and were widely available. International media were allowed to operate freely.

Internet Freedom.—There were no government restrictions on access to the Internet and no reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. However, the relative lack of telecommunications infrastructure, especially beyond the capital island of Funafuti, and relatively high costs restricted public access to and use of the Internet.

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

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The constitution provides for freedom of religion, and the government generally respected this right in practice. The constitution also states that the laws are to be based on Christian principles. Despite official tolerance, religious homogeneity (more than 90 percent of citizens are members of the Church of Tuvalu, a Congregationalist denomination) and traditional structures of communal life posed practical barriers to the introduction and spread of other religious beliefs.

In September the Court of Appeal met to review the Tuvalu Brethren Church's 2006 appeal of the High Court's 2005 ruling permitting local traditional authorities to restrict the constitutional right to religious freedom in defense of traditional mores. In its decision the court set aside the High Court ruling and declared unconstitutional a 2003 resolution of the Nanumanga Island council banning the Brethren Church.

The constitution provides that no person attending a place of education shall be required to receive religious instruction or participate in other religious activities without his or her consent. Officials of Jehovah's Witnesses confirmed that during the year the government granted students at Motufoua Secondary School who were members of Jehovah's Witnesses exemption from religious instruction at school. The church had previously reported cases in which school officials required such students to attend religious instruction despite their requests to be excused.

Societal Abuses and Discrimination.—There was a degree of societal intolerance toward religions other than established Christian denominations, particularly on the outer islands. There was no known Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The occasion did not arise during the year for government cooperation with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

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

Protection of Refugees.—The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. Its laws provide for the granting of asylum or refugee status, but the government has not established a system for providing protection to refugees. During the year there were no applications for refugee resettlement, asylum, or protection against expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

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

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

Elections and Political Participation.—The 2006 general elections were generally free and fair. An eight-member majority of the newly elected Parliament selected Apisai Ielemia as prime minister.

There were no formal political parties; instead, Parliament tended to divide between an ad hoc faction with at least the necessary eight votes to form a government and an informal opposition faction.

Participation by women in government and politics was limited, largely due to traditional perceptions of women's role in society. There were no women in the 15-member Parliament. One woman served as a cabinet minister.

There were no members of minorities in the Parliament or the cabinet.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for some forms of official corruption, such as theft; however, laws against corruption are weak. There was widespread public perception that government transparency and accountability needed further improvement. While the government enacted a "leadership code" in 2007 that outlines standards of conduct for government officials, as of year's end it was not implemented. Concerns remained that public funds sometimes were mismanaged and that government officials sometimes benefited unfairly from their positions, particularly in regard to overseas travel and related payments and benefits. During the year the government continued to ban most overseas travel by officials unless funded from abroad.

The law provides for annual, public ministerial reports, but publication was spotty and often nonexistent. The Auditor General's Office, responsible for providing government oversight, was underfunded and lacked serious parliamentary support. Public officials were not subject to financial disclosure laws.

In March, together with Nauru and Kiribati, the country signed a memorandum of understanding to establish a subregional audit support program, a new initiative of the Pacific Association of Supreme Audit Institutions, with the goal of enabling public accounts to be audited to uniformly high standards in a timely manner.

There is no law providing for public access to government information. In practice the government was somewhat cooperative in responding to individual requests for such information.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There were no local NGOs focused entirely on human rights, although there were no known barriers to their establishment. Some human rights advocates, such as the Tuvalu National Council of Women, operated under the auspices of the Tuvalu Association of Nongovernmental Organizations, which was composed primarily of religious organizations. The people's lawyer monitored sentencing, equality before the law, and human rights issues in general. This institution, which at times was critical of the government, nonetheless was supported by the government, which frequently sought its advice. The few other local organizations involved in human

rights issues generally operated without government restriction, investigating and publishing their findings on human rights cases. However, opportunities to publicize such information locally were severely limited due to the lack of local print and electronic media. Government officials were somewhat cooperative and responsive to local organizations' views.

The government cooperated with international governmental organizations and permitted visits by UN representatives or other organizations, but there were no such visits during the year.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the basis of race, color, and place of origin, and the government generally enforced these prohibitions. In 2005 the High Court stated that the omission of gender as a basis of discrimination in the constitution was deliberate, and there is no constitutional protection against gender discrimination.

Women.—A 2007 demographic and health survey conducted by the Secretariat of the Pacific Community reported that approximately 47 percent of the women surveyed had experienced some type of violence in their lifetime. Nine percent experienced sexual violence, 25 percent experienced other physical violence, and a further 12 percent were victims of both sexual and other physical violence.

Rape is a crime punishable by a minimum sentence of five years' imprisonment, but spousal rape is not included in the legal definition of this offense. There were both arrests and trials for rape-related offenses during the year.

The law does not specifically address domestic violence, and the issue was not a source of broad societal debate. Acts of domestic violence were prosecuted under the assault provisions of the penal code. The maximum penalty for common assault is six months' imprisonment, and for assault with actual bodily harm, it is five years' imprisonment. Human rights observers criticized the police for seeking to address violence against women using traditional and customary methods of reconciliation rather than criminal prosecution. There were no shelters or hotlines for abused women.

Prostitution is illegal and was not a problem. The law does not specifically prohibit sexual harassment but prohibits indecent behavior, which includes lewd touching. Sexual harassment was not a significant problem.

Couples and individuals have the right to decide freely the number, spacing, and timing of their children, and have the means and information to do so free from discrimination, coercion, and violence. The nongovernmental Tuvalu Family Health Association provided information and education about, and access to, contraception. Government hospitals also offered the same services and provided free prenatal, obstetric, and postnatal care. Women and men received equal access to diagnosis and treatment of sexually transmitted infections, including HIV.

There remained some areas in which the law contributes to an unequal status for women, such as land inheritance rights and child custody rights.

In practice women held a subordinate societal position, constrained both by law in some instances and by traditional customary practices. Nonetheless, women increasingly held positions in the health and education sectors, headed a number of NGOs, and were more active politically. In the wage economy, men held most higher-paying positions, while women held the majority of lower-paying clerical and retail positions.

Children.—Citizenship is derived through one's parents.

The government did not compile child abuse statistics, and there were no reported cases of child abuse or child prostitution during the year. However, anecdotal evidence indicated that child abuse occurred. Corporal punishment, in the form of strokes of a cane or paddle, was common in schools.

The age of consent for sexual relations is 15. Sexual relations with a girl below age 13 is punishable by up to life imprisonment. Sexual relations with a girl above age 12 but under age 15 is punishable by up to five years' imprisonment. The victim's consent is irrelevant under both these provisions; however, in the latter case, reasonable belief that the victim was 15 or older is a permissible defense. There is no specific provision of law pertaining to child pornography.

Trafficking in Persons.—The law does not prohibit all forms of trafficking in persons, but there were no reports that persons were trafficked to, from, through, or within the country. The law specifically prohibits procurement of persons within and across borders for purposes of prostitution.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The law does not prohibit discrimination on the basis of physical or mental disability. There were no known reports of discrimination against persons with disabilities in employment, education, or the provision of other state services. However, supplementary state services to address the special needs of persons with disabilities were very limited. There are no mandated building accessibility provisions for persons with disabilities. Although the one multistory government building had elevators, they were not operational, and there were no elevators in other multistory buildings.

There was no government agency with specific responsibility for protecting the rights of persons with disabilities.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—Sodomy and acts of “gross indecency between males” are illegal, with maximum penalties of 14 and seven years’ imprisonment respectively, but there were no reports of prosecutions directed against lesbian, gay, bisexual, or transgender persons under these provisions during the year. Societal discrimination against persons based on sexual orientation was not common, and there were no reports of such discrimination during the year.

Other Societal Violence or Discrimination.—Persons with HIV/AIDS faced some societal discrimination. Local agents of foreign companies that hired seafarers from Tuvalu to work abroad barred persons with HIV/AIDS from employment. The government and NGOs cooperated to inform the public about HIV/AIDS and to counter discrimination. There were no reports of violence against persons based on HIV/AIDS status.

Section 7. Worker Rights

a. The Right of Association.—The law provides for the right of association. Workers were free to organize unions and choose their own labor representatives, but most of the population lacked permanent employment and was engaged in subsistence activity.

Public-sector employees, such as civil servants, teachers, and nurses, were members of professional associations that did not have union status. The only registered trade union, the Tuvalu Seamen’s Union, had approximately 1,350 members, approximately 300 of whom worked on foreign merchant vessels.

The law provides for the right to strike, but no strike has ever taken place.

b. The Right to Organize and Bargain Collectively.—The law provides for conciliation, arbitration, and settlement procedures in cases of labor disputes. Although there are provisions for collective bargaining, in practice the few individual private-sector employers set their own wage scales. Both the private and public sectors generally used nonconfrontational deliberations to resolve labor disputes.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits children under age 14 from working in the formal labor market. The law also prohibits children under age 15 from industrial employment or work on any ship and stipulates that children under age 18 are not allowed to enter into formal contracts, including work contracts. The government effectively enforced these prohibitions. Children rarely were employed outside the traditional economy of subsistence farming and fishing.

e. Acceptable Conditions of Work.—The minimum wage, set by the Ministry of Foreign Affairs and Labor, was barely sufficient to allow a worker and family in the wage economy to maintain a decent standard of living. The biweekly minimum wage in the public sector was A\$130 (approximately \$116). Private-sector wages were typically somewhat lower than the government’s minimum wage rate.

The Ministry of Foreign Affairs and Labor may specify the days and hours of work for workers in various industries. The law sets the workday at eight hours. However, very few persons worked in the formal economy, which was primarily on the main island, and the government did not have occasion to enforce the law during the year.

The law provides for rudimentary health and safety standards. It requires employers to provide an adequate potable water supply, basic sanitary facilities, and medical care. The Ministry of Foreign Affairs and Labor is responsible for the enforcement of these regulations, but in practice it provided minimal enforcement.

Workers can remove themselves from work situations that endanger health or safety without jeopardy to their jobs; the law also protects legal foreign workers.

VANUATU

Vanuatu is a multiparty parliamentary democracy with a population of approximately 235,000. The head of government, Prime Minister Edward Natapei, governed with a seven-party coalition. The most recent elections, held in September 2008, were considered generally free and fair. Civilian authorities generally maintained effective control of the security forces; however, police officials on occasion acted punitively or at the direction of senior politicians.

The government generally respected the human rights of its citizens, but there were problems in some areas. These included poor prison conditions, arrests without warrants, an extremely slow judicial process, government corruption, and violence and discrimination against women.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The government or its agents did not commit any politically motivated killings; however, in March police officers reportedly beat 21-year-old escaped prisoner John Bule after recapturing him. Bule later died at Vila Central Hospital, where he had been brought by police after sustaining multiple injuries. At year's end no one had been charged in the case, and a coroner's inquest was continuing.

Court hearings reportedly were carried out during the year in the case of the 2007 mob violence in which three persons were killed and 20 injured in the Blacksands and Anabrou squatter settlements in Port Vila, with one outstanding case awaiting trial at year's end. No further information was available.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The constitution prohibits such practices, and there were no reports that government officials employed torture; however, there were reports of police and correctional officer abuse of criminal suspects and prison inmates respectively.

Prison and Detention Center Conditions.—Conditions at the three prisons in Port Vila improved slightly during the year with foreign donor funding but remained below international standards. In December 2008 inmates set fire to the main Port Vila prison, allegedly due to their frustration over the poor conditions there, and approximately 70 prisoners escaped. Security at all facilities was poor, and there were frequent prisoner escapes.

At year's end the prison system held a total of 190 inmates, including 158 convicted prisoners and 32 pretrial detainees. There were four female prisoners and five male juvenile prisoners (defined by law as persons under age 16). Although there is no legislated maximum capacity for existing prison facilities, the total prison capacity during the year was 210. This included two men's facilities in Port Vila, one men's facility in Santo, and one women's facility in Port Vila. Male inmates were incarcerated in overcrowded facilities. Persons deemed mentally unfit to stand trial were held with the general prison population.

Following the December 2008 release of a report detailing prisoner complaints about the poor conditions at the main Port Vila prison, the government established a commission of inquiry to investigate prisoners' allegations. The commission prepared a report, but it had not been publicly released as of year's end.

In April a Supreme Court judge expressed the court's concern about treatment of inmates and ordered the public prosecutor to investigate and report back to the court, among other things, the names of all prisoners hospitalized since January 1, details of their injuries and illnesses, and information on prison escapees. According to the public prosecutor, only one case was received from the police by year's end and was under investigation. At year's end no report had been released.

The government permitted prison monitoring visits by independent human rights observers. During the year the prisons in Port Vila were visited by representatives from the UN High Commissioner for Human Rights and by members of the country's judiciary.

There were some improvements reported in prison conditions during the year. In September the nongovernmental organization (NGO) Impunity Watch reported that the country had implemented separation of juveniles from adult prisoners in its correctional facilities. Previously some juveniles had been held with adults. According

to the director of correctional services, prison food was improved to include protein three times per week, which was not the case previously.

Following the December 2008 fire, a major refurbishment was undertaken of the Port Vila prison facilities during the year, with foreign assistance. New infrastructure in the form of a temporary “high risk” unit was constructed to create more appropriate accommodations for inmates who had committed violent offenses and inmates with a previous record of escapes. Health-care services were procured from the Red Cross to supplement services available through the public health system, and a Red Cross nurse was assigned to deliver health care services to inmates. Specialist cook positions were created to assist in ensuring appropriate food preparation, and a joinery workshop was established to add to the range of activities available to inmates. The technical advisor of the Vanuatu Corrections Project stated that with foreign government assistance significant progress was made toward construction of a new correctional center, with the acquisition of a site and the development of a concept design accomplished by year’s end.

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

Role of the Police and Security Apparatus.—The commissioner of police heads the police force, including a police maritime wing, the paramilitary Vanuatu Mobile Force, the Immigration Department, the National Disaster Management Office, and the National Fire Service. Police effectiveness was hampered by a lack of resources and involvement in ancillary activities such as search and rescue operations, immigration, and national disaster response. During the year foreign assistance continued to be provided to address some of the problems confronting the force. Actions taken under the assistance projects included recruitment of new officers, establishment of additional police posts on outer islands and in rural areas, and police building repairs and maintenance. Under a five-year capacity-building project begun in 2006, seven Australian Federal Police officers were attached to the Vanuatu Police Force as advisors.

Corruption and impunity were not major problems; however, there were instances of corruption and instances in which police acted without proper authorization at the behest of politicians. In October 2008 four police officers suspended in 2007 for their implication in a fraud case returned to full duty pending the return to the country of an Indo-Fijian who was the prime suspect. During the year the police commissioner confirmed that one of the officers had committed suicide in relation to the case, and the other officers continued on duty as the prime suspect had not returned to the country, and there was insufficient evidence against the accused officers.

Arrest Procedures and Treatment While in Detention.—A warrant issued by a court is required for an arrest; however, police made a small number of arrests without warrants during the year. The constitutional provision that suspects must be informed of the charges against them generally was observed in practice.

A system of bail operated effectively; however, some persons not granted bail spent lengthy periods in pretrial detention due to judicial inefficiency. The ratio of pretrial detainees to the total prison population was relatively high. Judges, prosecutors, and police complained about large case backlogs due to a lack of resources and limited numbers of qualified judges and prosecutors. Years could pass before a case was brought to trial. Detainees were allowed prompt access to counsel and family members. The Public Defender’s Office provided counsel to indigent defendants.

e. Denial of Fair Public Trial.—The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice.

Magistrates’ courts deal with most routine legal matters. Island courts are present at the local level, with limited jurisdiction in civil and criminal matters. The Supreme Court, an intermediate-level court, has unlimited jurisdiction over criminal and civil matters and considers appeals from the magistrates’ courts. The Appeals Court is the highest appellate court. Judges cannot be removed without cause.

Trial Procedures.—The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. The judicial system is derived from British common law. Judges conduct trials and render verdicts; there are no juries. The courts uphold constitutional provisions for a fair public trial, a presumption of innocence until guilt is proven, a prohibition against double jeopardy, a right to counsel, a right to judicial determination of the validity of arrest or detention, a right to question witnesses and access government-held evidence, and a right of appeal. The law extends these rights to all citizens. The Public Defender’s Office provides free legal counsel to indigent defendants.

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

Civil Judicial Procedures and Remedies.—There is an independent and impartial judiciary for civil matters, including for human rights violations; however, police were reluctant to enforce domestic court orders.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The constitution prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The constitution provides for freedom of speech and of the press, and the government generally respected these rights in practice.

On January 17, four correctional service officers assaulted Marc Neil-Jones, publisher of the Vanuatu Daily Post newspaper, in his office. The Post had published articles reporting prisoners' allegations of poor treatment. At year's end one of the four officers was charged in the assault, and the case was pending a court hearing. In February freelance Post reporter Esther Tinning was assaulted by Collen Litch, a young man about whom she had written a feature story, as she took her children to school. Although the story was positive, Litch allegedly stated that he did not like a newspaper story being written about him. Litch was convicted of assault; he received a suspended sentence and a fine. The Post reported that Tinning, who was pregnant at the time, had a miscarriage as a result of the assault.

Internet Freedom.—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail; however, cost and lack of infrastructure limited public access to the Internet. The International Telecommunication Union reported that approximately 7 percent of the country's inhabitants used the Internet in 2008.

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

b. Freedom of Peaceful Assembly and Association.—The constitution provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion.—The constitution provides for freedom of religion, and the government generally respected this right in practice. The government provided some financial assistance for the construction of churches affiliated with member denominations of the Vanuatu Christian Council (VCC), provided grants to church-operated schools, and paid teachers' salaries at church-operated schools in existence since the country's independence. These benefits were not available to non-Christian religious organizations.

Government schools scheduled weekly religious education classes conducted by representatives of VCC churches. Students whose parents did not wish them to attend the classes were excused. Non-Christian religions were not permitted to give religious instruction in public schools.

Societal Abuses and Discrimination.—There were no reports of societal abuses or discrimination against religious groups, although some churches and individuals objected to missionary activities of nontraditional religious groups. The country's Jewish community was limited to a few foreign nationals, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR).

The law does not address forced exile, but the government did not employ it.

Protection of Refugees.—The country is not a party to the 1951 Convention relating to the Status of Refugees or its 1967 Protocol. The law does not provide for the granting of asylum or refugee status, and the government has not established a system for providing protection to refugees. The government did not grant refugee status or asylum. In practice, during the year there were no cases of refugees being returned or expelled to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. According to the principal immigration officer, at year's end there were three Sri Lankans and one Indonesian from West Papua in Port Vila

awaiting resettlement in a third country by the UNHCR office in Canberra, Australia.

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

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

Elections and Political Participation.—The most recent national parliamentary elections were held in September 2008 and were considered generally free and fair. Allegations of bribery and electoral fraud were raised against Foreign Minister Bakoa Kaltongga, two other politicians, and a former ambassador to the UN. The allegations against them were that some voters were turned away from polling booths because their names were not on the roll. According to the chief electoral officer, 13 petitions were filed alleging irregularities in the elections. Of these, six were upheld in court, resulting in three recounts and three by-elections. At year's end two additional petitions were pending court decisions, and the remaining petitions were withdrawn.

Political parties could operate without restriction or outside interference.

Traditional attitudes regarding male dominance and customary familial roles hampered women's participation in economic and political life. There was one woman in the 52-member Parliament. There were no women in the cabinet. In March Viran Molisa was appointed solicitor general, the first woman to hold that position, the second-ranking position (under the attorney general) in the Office of the State Law.

There were no minorities (non-Melanesians) in Parliament or the cabinet.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials often engaged in corrupt practices with impunity.

There were reports of government corruption during the year. The law provides for the appointment of public servants on the basis of merit; however, in practice political interference at times hampered the effective operation of the civil service.

A report by the Office of the Ombudsman released in 2008 revealed allegations of corruption and fraud in the Vatumaui Bay land deal. A new member of Parliament (MP) and a former lord mayor of Port Vila were allegedly implicated in the case. Although the case was referred to the Public Prosecutor's Office for further action, during the year that office sent it back to the police for further investigation, citing lack of sufficient evidence to prosecute.

Public officials are subject to a leadership code of conduct, which includes financial disclosure requirements. The Ombudsman's Office and Auditor General's Office are key government agencies responsible for combating government corruption.

No law provides for public access to government information. In practice governmental response to requests for information from the media was inconsistent. In June the Prime Minister's Office released a memorandum to all government ministers instructing them to engage proactively with the media on issues where their areas of responsibilities were brought into question, in order to avoid negative media reporting.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

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

The government cooperated with international governmental organizations and permitted visits by UN representatives and other organizations. There were a number of reports issued by or with the support of UN agencies during the year.

The president appoints a government ombudsman to a five-year term in consultation with other political leaders. Since its establishment, the Ombudsman's Office has issued a number of reports critical of government institutions and officials. However, it did not have adequate resources or independent power to prosecute, and the results of its investigations may not be used as evidence in court proceedings. Cases reported to the ombudsman and deemed to be valid were referred to the Public Prosecutor's Office for further action, but there were few prosecutions.

In April a new NGO, the Advocacy of Legal Advice Center, was established with the stated goal of working to hold officials more accountable, including following up on public complaints about officials and building a database of cases.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the basis of race, place of origin, language, or sex; however, women remained victims of discrimination in the tradition-based society.

Women.—Although rape is a crime, with a maximum penalty of life imprisonment, spousal rape is not cited specifically in the law, and police frequently were reluctant to intervene in what were considered domestic matters.

Violence against women, particularly domestic violence, was common, although no accurate statistics existed. In 2008 Parliament passed the Family Protection Act, which covers domestic violence, women's rights, children's rights, and family rights. Violators could face prison terms of up to five years or pay a fine of up to 100,000 vatu (approximately \$1,040) or both. By year's end a national task force for implementation of the law had been appointed and a framework for implementation approved, but the law had not yet been implemented.

Most cases of violence against women, including rape, went unreported because women, particularly in rural areas, were ignorant of their rights or feared further abuse. There were no government programs to address domestic violence, and media attention to the abuse was limited. The Department of Women's Affairs played a role in the process for implementing the Family Protection Act, and the department's 2009 budget provided for increases in staffing and other resources to improve its capacity to carry out its responsibilities. The Police Academy provided training in the handling of domestic violence and sexual assault cases. Police have a "no drop" policy under which they do not drop reported domestic violence cases; if the victim later wishes to withdraw her complaint, she must go to court to request it be dropped.

Churches and NGOs operated facilities for abused women. NGOs such as the National Council of Women and the Vanuatu Women's Center also played an important role in educating the public about domestic violence but did not have sufficient funding to implement their programs fully.

Prostitution is illegal and was not regarded as widespread. However, in 2008 and again during the year, the Vanuatu Daily Post reported that prostitution was increasing; poverty appeared to be the main cause.

Sexual harassment is not illegal and was a problem.

According to the country's family planning policy guidelines, couples and individuals have the right to decide freely the number, spacing and timing of their children. This right was generally upheld in practice. According to the national reproductive health coordinator, the Ministry of Health provides training on, and works to raise awareness of, human rights and gender equity with regard to reproductive health services and behavior. The country is predominantly a patriarchal society, and sometimes decisions on family planning and contraceptive use were made by the man in the relationship without taking the woman's views into consideration. The ministry cooperated with the Department of Labor on the Male Involvement in Reproductive Health Project, which worked to sensitize men in the workforce about reproductive health issues. The country's geographical layout in relation to service delivery points, both between islands and inland, sometimes made it difficult to obtain access to contraception, essential obstetric and postpartum care, and treatment of sexually transmitted infections, including HIV. Obstacles included lack of adequate roads and the high cost of transport to reach health-care facilities.

While women have equal rights under the law, they were only slowly emerging from a traditional culture characterized by male dominance, a general reluctance to educate women, and a widespread belief that women should devote themselves primarily to childbearing. The majority of women entered into marriage through "bride-price payment," a practice that encouraged men to view women as property. In practice women also generally were barred by tradition from land ownership. Many female leaders viewed village chiefs as major obstacles to social, political, and economic rights for women.

In practice women experienced discrimination in access to employment, credit, and pay equity for substantially similar work. Vanuatu Transparency, Limited and the South Pacific Commission, through a program of the Pacific Regional Rights Resource Team, worked to increase awareness of women's legal rights. The government, with the assistance of the UN Development Program, ran the Vanuatu Women's Development Scheme (VANWODS). VANWODS provided poor and disadvantaged women with microloans to start income-producing activities, with the goal of making these activities progressively more self-financing. Women interested in running for public office received encouragement from the Vanuatu Council of Women and the Department of Women's Affairs, which also offered training programs and funding.

Children.—Citizenship is derived both through birth in the country and through one's parents.

The government stressed the importance of children's rights and welfare, but there were significant problems in education. Although there is a free and universal education policy, all children paid school fees, which served as a barrier to education.

School attendance is not compulsory. Less than 35 percent of all children advanced beyond elementary school due to a shortage of schools and teachers beyond grade six. Boys tended to receive more education than did girls. Although attendance rates were similar in the early primary grades, fewer girls advanced to the higher grades. A significant portion of the population, perhaps as high as 50 percent, was functionally illiterate.

Child abuse was not believed to be extensive; however, the government did little to combat the problem. NGOs and law enforcement agencies reported increased complaints of incest and rape of children in recent years, but no statistics were available. In January police charged Efate MP Joshua Kalsakau with indecent assault and unlawful sexual intercourse with a minor; the offense allegedly took place at a resort on New Year's Eve in 2008. Kalsakau was released on bail pending trial. However, before the trial date, the victim withdrew her complaint and refused to testify, and the charges were dismissed due to lack of evidence.

Children generally were protected within the traditional extended family system. Members of the extended family played an active role in a child's development. Virtually no children were homeless or abandoned.

The legal age for marriage is 21, although boys between 18 and 21 and girls between 16 and 21 may marry with parental permission. In rural areas and some outer islands, some children married at younger ages.

Section 97 of the penal code addresses statutory rape. It provides for a maximum legal penalty for violators of five years' imprisonment if the child is over age 12 but under age 15, or 14 years' imprisonment if the child is under age 13.

Child pornography is illegal. The penalty is five years' imprisonment or if the child is under age 14, seven years' imprisonment.

Trafficking in Persons.—The law does not specifically prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, through, or within the country.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—There is no law specifically prohibiting discrimination against persons with physical or mental disabilities. There is a national policy designed to protect the rights of persons with disabilities, but the government did not implement it effectively. There were no special programs to assist persons with disabilities and no legislation mandating access to buildings for them. Their protection and care were left to the traditional extended family and NGOs. Due to a high rate of unemployment, few jobs were available for persons with disabilities. Persons with mental illness generally did not receive specialized care; members of their extended families usually attended to them.

National/Racial/Ethnic Minorities.—Most of the population is Melanesian. Small minorities of Chinese, Fijians, Vietnamese, Tongans, and Europeans generally were concentrated in two towns and on a few plantations. Most of the land belongs to indigenous tribes and cannot be sold, although prime real estate was increasingly leased to others. Within the limits of this system of land tenure, there generally were no reports of discrimination against ethnic minorities; however, only indigenous farmers may legally grow kava, a native herb, for export.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—There were no reports of societal violence or discrimination against persons based on sexual orientation or gender identity.

Other Societal Violence or Discrimination.—There were no reports of societal violence or discrimination against persons based on HIV/AIDS status.

Section 7. Worker Rights

a. The Right of Association.—The law provides all workers with the right to organize and join unions, and workers exercised this right in practice. Approximately 15,000 persons participated in the formal economy as wage earners. Combined union membership in the private and public sectors was approximately 1,900. The two existing trade unions, the Vanuatu Teacher's Union and the Vanuatu National Worker's Union, were independent of the government and grouped under an umbrella organization, the Vanuatu Council of Trade Unions. The high percentage (approximately 70 percent) of the population engaged in subsistence agriculture and

fishing precluded extensive union activity. Unions require government permission to affiliate with international labor federations, but the government has not denied any union such permission.

Workers have the right to strike, and this right was exercised in practice. The law prohibits retaliation for legal strikes. In the case of private-sector employees, complaints of violations are referred to the Department of Labor for conciliation and arbitration. In the public sector, the Public Service Commission handles complaints of violations. Unions are required by law to give 30 days' notice of intent to strike and to provide a list of the names of potential strikers.

In March some workers at the sole electric utility, UNELCO, went on strike to protest the termination of another staff member, Gremson Valua, who was also their spokesperson and a member of the Vanuatu Workers Union. The one-day sit-in strike prompted a court hearing the same day; the court ruled the strike illegal and ordered the workers to return to work. Staff resumed work, and Valua was not reinstated. UNELCO did not give a reason for his termination but, according to the Department of Labor, paid out all the entitlements due him under the Employment Act. The union continued to maintain that Valua was terminated because he was a union member.

b. The Right to Organize and Bargain Collectively.—Unions exercised the right to organize and bargain collectively. They negotiated wages and conditions directly with management. If the two sides cannot agree, the matter is referred to a three-member arbitration board appointed by the minister of home affairs. The board consists of one representative from organized labor, one from management, and the senior magistrate of the magistrates' courts. While a dispute is before the board, labor may not strike and management may not dismiss union employees. However, unions and management generally reached agreement on wages without arbitration.

While the law does not require union recognition, it prohibits antiunion discrimination once a union is recognized. Complaints of antiunion discrimination are referred to the Department of Labor. There were no known employee complaints of such discrimination received by the department during the year, other than workers' allegation of discrimination by the UNELCO electric utility against a union member.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The constitution prohibits forced or compulsory labor, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits children under age 12 from working outside family-owned agricultural production, where many children assisted their parents. The employment of children from 12 to 18 years of age is restricted by occupational category and conditions of labor, including employment in the shipping industry and nighttime employment. The Department of Labor effectively enforced these laws.

e. Acceptable Conditions of Work.—In 2008 the Department of Labor increased the minimum wage to 26,000 vatu (approximately \$270) per month. The department reviews the minimum wage in consultation with employers and unions, as and when directed by the minister for labor. The minimum wage was enforced effectively, but did not provide a decent standard of living for an urban worker and family. However, most families were not dependent solely on wages for their livelihood, supplementing their incomes through subsistence farming.

Various laws regulated benefits such as sick leave, annual vacations, and other conditions of employment, including a 44-hour maximum workweek that included at least one 24-hour rest period. The Employment Act provides for a premium of 50 to 75 percent over the normal rate of pay for overtime work. A 2008 amendment to the act increased maternity leave pay from 50 percent of salary to full salary for up to 12 weeks.

The Employment Act, enforced by the Department of Labor, includes provisions for safety standards. Workers have the right to remove themselves from dangerous work situations without jeopardy to their continued employment. However, the safety and health law was inadequate to protect workers engaged in logging, agriculture, construction, and manufacturing, and the three inspectors attached to the Department of Labor could not enforce the law fully. Laws on working conditions and safety standards apply equally to foreign workers and citizens.

VIETNAM

The Socialist Republic of Vietnam, with a population of approximately 87 million, is an authoritarian state ruled by the Communist Party of Vietnam (CPV). The most recent National Assembly elections, held in 2007, were neither free nor fair, since all candidates were vetted by the CPV's Vietnam Fatherland Front (VFF), an umbrella group that monitored the country's mass organizations. Civilian authorities generally maintained effective control of the security forces.

The government's human rights record remained a problem. Citizens could not change their government, and political opposition movements were prohibited. During the year the government increased its suppression of dissent, arresting several political activists and convicting others arrested in 2008. Several editors and reporters from prominent newspapers were fired for reporting on official corruption and outside blogging on political topics, and bloggers were detained and arrested for criticizing the government. Police commonly mistreated suspects during arrest or detention. Prison conditions were often austere. Although professionalism in the police force improved, corruption remained a significant problem, and members of the police sometimes acted with impunity. Individuals were arbitrarily detained for political activities and denied the right to fair and expeditious trials. The government continued to limit citizens' privacy rights and tightened controls over the press and freedom of speech, assembly, movement, and association. The government maintained its prohibition of independent human rights organizations. Violence and discrimination against women as well as trafficking in persons continued to be significant problems, despite laws and government efforts to combat such practice. Some ethnic minority groups suffered societal discrimination. The government limited workers' rights to form and join independent unions.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports that the government or its agents committed arbitrary or unlawful killings. Unlike in previous years, there were no reports of deaths in custody.

There were no developments in the case of Y Ben Hdok, a Montagnard from Dak Lak who died while in detention in May 2008.

b. Disappearance.—There were no reports of politically motivated disappearances. There were no developments in the case of Thich Tri Khai, a monk from the unregistered Unified Buddhist Church of Vietnam, whom police arrested in 2008.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits physical abuse; however, police commonly mistreated suspects physically during arrest or detention. Incidents of police harassment were reported in the provinces of Dak Lak, Dien Bien, Gia Lai, Ha Giang, Lai Chau, Nghe An, Son La, Thai Binh, Thanh Hoa, and Tra Vinh. Some incidents were related to unrecognized Protestant churches that were seeking to hold services in these provinces. Land-rights protesters in Ho Chi Minh City and several Mekong Delta provinces also reported harassment from local authorities. Most incidents between ethnic minorities and local authorities involved land, money, or domestic disputes.

In contrast with 2008, there were no reports that the government committed activists involuntarily to mental hospitals as a tactic to quell dissent.

The Open Society Institute reported that more than 50,000 drug users were being held in forced detoxification drug treatment camps.

Prison and Detention Center Conditions.—Prison conditions could be austere but generally did not threaten the lives of prisoners. Overcrowding, insufficient diet, lack of clean drinking water, and poor sanitation remained serious problems. Prisoners generally were required to work but received no wages. Foreign diplomats observed Spartan but clean living areas and generally acceptable labor conditions during a May visit to Nam Ha Prison in Ha Nam Province. Prisoners sometimes were moved to solitary confinement, where they were deprived of reading and writing materials for periods of up to several months. Family members made credible claims that prisoners received better benefits by paying bribes to prison officials.

Prisoners had access to basic health care, with additional medical services available at district or provincial hospitals. However, in many cases officials obstructed family members from providing medication to prisoners. Family members of one activist who experienced eye problems while in a prison in Thanh Hoa Province and family members of another activist who had a stroke while in prison in Ha Nam Province both claimed that medical treatment was inadequate, resulting in greater long-term health complications.

Prison authorities returned Father Nguyen Van Ly's Bible to him and allowed him to read party-sanctioned newspapers and watch television. However, he was in poor health after suffering two strokes in prison in July and November. After the second and more severe stroke, he was moved to a hospital administered by the Ministry of Public Security (MPS) near Hanoi. Following treatment, he was returned to the prison facility in Ha Nam, where he remained at year's end.

The total number of prisoners and detainees was not publicly available. Pretrial detainees were held separately from convicted prisoners. By regulation and practice, juveniles were held separately from adults in prison, but on rare occasions they were held with adults in detention for short periods of time due to availability of space in detention facilities. By regulation men and women were held separately. Political prisoners were typically sent to specially designated prisons that also held other convicts, and in most cases most political prisoners were kept separate from nonpolitical prisoners. Some high-profile political prisoners were kept in complete isolation from all other prisoners.

Authorities allowed foreign diplomats and a foreign delegation to make limited prison visits and meet with prisoners in various prisons.

d. Arbitrary Arrest or Detention.—The criminal code allows the government to detain persons without charges indefinitely under vague "national security" provisions such as articles 84, 88, and 258. The government also arrested and detained indefinitely individuals under other legal provisions. Authorities subjected several dissidents throughout the country to administrative detention or house arrest.

Role of the Police and Security Apparatus.—Internal security is the responsibility of the MPS; however, in some remote areas, the military is the primary government agency and provides public safety functions, including maintaining public order in the event of civil unrest. The MPS controls the police, a special national security investigative agency, and other internal security units. It also maintains a system of household registration and block wardens to monitor the population. While this system has generally become less intrusive, it continued to be used to monitor those suspected of engaging, or likely to engage, in unauthorized political activities. Credible reports suggested that local police forces used "contract thugs" and "citizen brigades" to harass and beat political activists and others, including religious worshippers, perceived as "undesirable" or a "threat" to public security.

Police organizations exist at the provincial, district, and local levels and are subject to the authority of people's committees at each level. The police were generally effective at maintaining political stability and public order, but police capabilities, especially investigative, were generally very low. Police training and resources were inadequate.

Corruption among police remained a significant problem at all levels, and members of the police sometimes acted with impunity. Internal police oversight structures existed but were subject to political influence. The government cooperated with several foreign governments in a program for provincial police and prison management officials to improve the professionalism of security forces.

Arrest Procedures and Treatment While in Detention.—The criminal code outlines the process by which individuals are taken into custody and treated until they are brought before a court or other tribunal for judgment. The Supreme People's Procuratorcy (the public prosecutor's office) issues arrest warrants, generally at the request of police. However, police may make an arrest without a warrant on the basis of a complaint filed by any person. The procuratorcy issues retroactive warrants in such cases. The procuratorcy must issue a decision to initiate a formal criminal investigation of a detainee within nine days; otherwise, police must release the suspect. In practice the nine-day regulation was often circumvented.

The investigative period typically lasted from three months for less serious offenses (punishable by up to three years' imprisonment) to 16 months for exceptionally serious offenses (punishable by more than 15 years' imprisonment or capital punishment) to more than two years for national security cases. However, at times investigations could be prolonged indefinitely. The criminal code further permits the procuratorcy to request additional two-month periods of detention after an investigation to consider whether to prosecute a detainee or ask the police to investigate further. Investigators sometimes used physical isolation, excessively lengthy interrogation sessions, and sleep deprivation to compel detainees to confess.

By law detainees are permitted access to lawyers from the time of their detention; however, authorities used bureaucratic delays to deny access to legal counsel. In cases investigated under broad national security laws, authorities often delayed defense lawyers' access to clients until an investigation had ended and the suspect had been formally charged with a crime. Under the regulations, investigations can be continued and access to counsel denied for more than two years. In addition, a scar-

city of trained lawyers and insufficient protection of defendant rights made prompt detainee access to an attorney rare. In practice only juveniles and persons formally charged with capital crimes were assigned lawyers.

Attorneys must be informed of and allowed to attend interrogations of their clients. However, a defendant first must request the presence of a lawyer, and it was unclear whether authorities always informed defendants of this right. Attorneys also must be given access to case files and be permitted to make copies of documents. Attorneys were sometimes able to exercise these rights.

Police generally informed families of detainees' whereabouts, but family members could visit a detainee only with the permission of the investigator, and this permission was not regularly granted. During the investigative period, authorities frequently did not allow detainees access to family members, especially in national security cases. Prior to a formal indictment, detainees also have the right to notify family members. However, a number of detainees suspected of national security violations were held incommunicado. At year's end some persons arrested for more than a year had not been seen by family members or a lawyer, nor had they been formally charged with crimes.

There is no functioning bail system or equivalent system of conditional release. Time spent in pretrial detention counts toward time served upon conviction and sentencing.

Courts may sentence persons to administrative detention of up to five years after completion of a sentence. In addition police or mass organizations can propose that one of five "administrative measures" be imposed by people's committee chairpersons at district and provincial levels without a trial. The measures include terms ranging from six to 24 months in either juvenile reformatories or adult detention centers and generally were applied to repeat offenders with a record of minor offenses, such as committing petty theft or "humiliating other persons." Chairpersons may also impose terms of "administrative probation," which generally was some form of restriction on movement and travel. Authorities continued to punish some individuals using vaguely worded national security provisions in the criminal code.

Arbitrary detentions, particularly for political activists, remained a problem. The government used decrees, ordinances, and other measures to detain activists for the peaceful expression of opposing political views. During the year authorities arrested several individuals for violating article 88, which prohibits the "distribution of propaganda against the state." Those charged with violating article 88 typically received sentences of up to five years in prison. While several activists received reduced prison sentences after they appealed, others had their original sentences reaffirmed during appeals.

There were continued reports that government officials in the Central and Northwest Highlands temporarily detained ethnic minority individuals for communicating with the ethnic minority community abroad during the year.

As in 2008, peaceful land rights protests in Ho Chi Minh City and Hanoi resulted in the temporary detention and surveillance of several organizers, although the government handled the dispersal of these protests without significant violence.

Religious and political activists also were subject to varying degrees of informal detention in their residences. In Ho Chi Minh City, prominent activists Nguyen Dan Que and Do Nam Hai remained under house arrest.

Amnesty.—In advance of the Tet holiday and in honor of National Day, the central government amnestied approximately 20,000 prisoners, the overwhelming majority of whom had ordinary criminal convictions.

The Tet amnesty included well-known journalist Nguyen Viet Chien, People's Democratic Party activist Tran Thi Le Hang, and land rights protester Dang Tien Thong, as well as four Khmer Krom Buddhist monks (Kim Moeun, Danh Tol, Thach Thuong, and Ly Hoang) convicted for their involvement in land protests in 2007. The National Day amnesty included Nguyen Huu Hai and Nguyen Hong Son, both affiliated with an unrecognized branch of Cao Daiism. Cambodian police arrested Hai and Son in 2004 for protesting the Vietnamese delegation at an Association of Southeast Asian Nations Inter-Parliamentary Organization meeting in Phnom Penh. They were expelled to Vietnam later in 2004 and convicted of "fleeing abroad to oppose the government" and "propagating documents against the Vietnamese Government to incite demonstrations and riots."

More than 100 Montagnards from the Central Highlands convicted for violating national security laws in 2001 and 2004 were reportedly released during the year, including 11 during the September National Day amnesty.

e. Denial of Fair Public Trial.—The law provides for the independence of judges and lay assessors; however, in practice the CPV controlled the courts at all levels through its effective control over judicial appointments and other mechanisms. In

many cases the CPV determined verdicts. Most, if not all, judges were members of the CPV and were chosen at least in part for their political views. As in past years, the judicial system was strongly distorted by political influence, endemic corruption, and inefficiency. CPV influence was particularly notable in high-profile cases and other instances in which a person was charged with challenging or harming the CPV or the state. In July and August, national television showed videotaped police confessions of several political activists arrested earlier in the year, including attorney Le Cong Dinh. The confessions were shown before their trials and in some cases before they were formally charged.

The judiciary consists of the Supreme People's Court (SPC); provincial and district people's courts; military tribunals; administrative, economic, and labor courts; and other tribunals established by law. Each district has a people's court, which serves as the court of first instance for most domestic, civil, and criminal cases. Each province also has a people's court, which serves as the appellate forum for district court cases. The SPC, which reports to the National Assembly, is the highest court of appeal and review. Administrative courts adjudicate complaints by citizens about official abuse and corruption. There are also special committees to help resolve local disputes.

Military tribunals, although funded by the Ministry of Defense, operate under the same rules as other courts. The head of the military tribunal system is the deputy head of the SPC. Military tribunal judges and assessors are military personnel chosen jointly by the SPC and the ministry but supervised by the SPC. The law gives military courts jurisdiction over all criminal cases involving military entities, including military-owned enterprises. The military has the option of using the administrative, economic, or labor courts for civil cases.

Courts of first instance at district and provincial levels include judges and lay assessors, but provincial appeals courts and the SPC are composed of judges only. People's councils appoint lay assessors from a pool of candidates suggested by the VFF. Lay assessors are required to have "high moral standards," but legal training is not required, and their role is largely symbolic.

There was a shortage of trained lawyers and judges. Low judicial salaries hindered efforts to develop a trained judiciary. The few judges who had formal legal training often had studied abroad only in countries with communist legal traditions. The government continued to participate in training programs to address the problem of inadequately trained judges and other court officials.

In May the Vietnam Bar Federation (VBF), a national professional association representing practicing attorneys, was formed pursuant to a prime ministerial decision in January 2008 to implement the 2005 Law on Lawyers. The VBF falls under the VFF and closely coordinated with the Ministry of Justice and the Vietnam Lawyers Association. The VBF acted as an umbrella association overseeing the functions of local bar associations, and it began developing a professional code of conduct for lawyers.

Trial Procedures.—The constitution provides that citizens are innocent until proven guilty; however, many lawyers complained that judges generally presumed guilt. Trials generally were open to the public, but in sensitive cases judges closed trials or strictly limited attendance. Juries are not used. Defendants have the right to be present and have a lawyer at trial, although not necessarily the lawyer of their choice, and this right was generally upheld in practice. Defendants unable to afford a lawyer generally were provided one only in cases of involvement of a juvenile offender or of possible sentences of life imprisonment or capital punishment. The defendant or the defense lawyer has the right to cross-examine witnesses; however, there were cases in which neither defendants nor their lawyers were allowed to have access to government evidence in advance of the trial, cross-examine witnesses, or challenge statements. Defense lawyers commonly had little time before trials to examine evidence against their clients. Convicted persons have the right to appeal. District and provincial courts did not publish their proceedings. The SPC continued to publish the proceedings of all cases it reviewed.

There continued to be credible reports that authorities pressured defense lawyers not to take as clients any religious or democracy activists facing trial, and several lawyers who took these cases faced harassment and arrest, such as attorneys Le Cong Dinh and Le Tran Luat. MPS spokesmen partially attributed Dinh's arrest to his defense of political dissidents in court.

The public prosecutor brings charges against an accused person and serves as prosecutor during trials. Earlier reforms to the criminal procedures code were intended to move courtroom procedures towards an "adversarial" system, in which prosecutors and defense lawyers advocate for their respective sides. Implementation differed from one province to another.

In March government officials allowed several foreign diplomats to attend the joint appellate trial of eight Thai Ha defendants (see Political Prisoners and Detainees).

Political Prisoners and Detainees.—There were no precise estimates of the number of political prisoners. The government held at least 60 political detainees at year's end, although some international observers claimed the number ranged into the hundreds. The government claimed it held no political prisoners, only lawbreakers.

On January 15, Mennonite pastor Nguyen Thi Hong was sentenced to three years in prison for "abusing trust to appropriate property" related to unpaid debts owed by her deceased husband, even though the debt had been paid and the plaintiff's family withdrew their complaint.

In May two foreigners were arrested and later deported for their alleged connections with the Viet Tan Party, and in July another foreigner was arrested and later deported for his alleged connections with the Democratic Party of Vietnam (DPV).

In June prominent attorney Le Cong Dinh was arrested for posting editorials on the BBC in Vietnamese and elsewhere that were critical of the government and for defending prominent human rights defenders, such as Le Thi Cong Nhan, Nguyen Van Dai, and blogger Dieu Cay. Later the government claimed that Dinh and Tran Huynh Duy Thuc were involved in a complex plot with overseas elements to overthrow the government. Dinh and Thuc were originally accused of "propagandizing against the state" under article 88, but on December 22, state-run media reported that they would be tried under article 79, a national security provision reserved for "organizers, instigators, and active participants" of antistate activities that typically carries more severe penalties, ranging from 12 to 20 years in prison to the death sentence. An associate of Thuc, Le Thang Long, also faced charges under article 79. Other associates, including Tran Thi Thu and Le Thi Thu Thu, were reportedly detained in June, but according to media reports they would not face trial.

On December 28, Tran Anh Kim, a former army colonel turned dissident blogger who worked as the North Vietnam representative for the banned political movement Bloc 8406 and was a DPV leader, was sentenced under article 79 to five years and six months in prison, followed by three years' probation. Kim and Nguyen Tien Trung, a DPV leader and cofounder of the Viet Youth for Democracy, were arrested in July for violating article 88; their charges also were elevated to the more serious article 79. In August state-run media broadcast "confessions" from Dinh, Thuc, Trung, and Kim claiming that they had jointly conspired to overthrow the government. They were awaiting trial at year's end.

Phung Quang Quyen, a member of the For the People Party (FPP) and the DPV, was released from prison in January but rearrested in September for the third time for violating his administrative probation by covertly traveling to Cambodia to meet with FPP leadership. Three other individuals affiliated with the DPV were also arrested: Truong Van Kim, Duong Au, and Truong Thi Tam. They were charged with violating article 91 of the penal code (fleeing to a foreign country to oppose the government) and were awaiting trial at year's end.

Le Thi Kim Thu, a land-rights activist arrested in August 2008 and later convicted and sentenced to 18 months' imprisonment under article 88 in November 2008, was released three months early in November for good behavior.

Authorities also detained and imprisoned persons who used the Internet to publish ideas on human rights, government policies, and political pluralism (see section 2.a., Internet Freedom).

In January People's Democratic Party member Huyen Nguyen Dao was released after completing his full sentence.

In February Trinh Quoc Thao, a member of the Group of Vietnamese Patriots, was released after completing his two-year sentence for "propagandizing against the government."

In April land rights activist and Bloc 8406 member Ho Thi Bich Khuong was released after completing her full sentence.

There were reports that during the year more than 100 Montagnards from the Central Highlands convicted of violating national security laws relating to protests in the Central Highlands in 2001 and 2004 were released.

In September Bloc 8406 and Bach Dang Giang member Nguyen Ngoc Quang was released after having served his three-year prison term for distributing prodemocracy articles and documents on the Internet.

In September land rights activists Luong Van Sinh and Luu Quoc Quan were released from prison after having served their full sentences for demonstrating without a permit and propagandizing against the government.

At the end of November, Tran Cong Minh, a member of the People's Action Party, was released from prison after completing his 13-year sentence. Minh was arrested in 1996 when he and 18 others attempted to cross from Cambodia to Thailand to

meet with leaders of the People's Action Party. Minh was transferred to Vietnam and put on trial in 1999.

Nguyen Khac Toan's administrative probation ended in January and Pham Hong Son's in August.

There were no developments reported in the case of the April 2008 detention and arrest of individuals suspected of organizing demonstrations by ethnic minority groups protesting local land use policies in the Central Highlands.

In February Nguyen Thi Cam Hong, a land rights protester from Long An Province arrested in 2008, was convicted and sentenced to 18 months' imprisonment for violating article 88.

In March eight participants arrested in the prayer vigils in Thai Ha parish lost an appeal contesting their December 2008 convictions of disturbing public order and destroying public property.

In four separate trials on October 6-9, nine dissidents affiliated with Bloc 8406 and detained in August-September 2008, were sentenced to jail terms ranging from two to six years for violating article 88. Seven of the nine had displayed banners in Hanoi, Haiphong, and Hai Duong that criticized the Communist Party and advocated multiparty democracy. The remaining two were convicted for their blogging, which the prosecution claimed slandered the government and the CPV. All but one was represented by counsel, but most family members were barred from attending the trials. Vu Van Hung and Tran Duc Thach were tried separately in Hanoi and sentenced to three years in prison with an additional three years of administrative probation. Pham Van Troi, also tried in Hanoi, was sentenced to four years' imprisonment and an additional four years of administrative probation. The remaining six dissidents were tried jointly in Haiphong. Nguyen Xuan Nghia received a six-year sentence plus three years of administrative probation. Nguyen Van Tuc was sentenced to four years in prison followed by three years' administrative probation. Nguyen Van Tinh and former party member Nguyen Manh Son were both sentenced to three years and six months in prison followed by three years' administrative probation. College student Ngo Quynh was given a three-year prison sentence followed by three years' administrative probation. Nguyen Kim Nhan was sentenced to two years' imprisonment and two years' administrative probation. Several foreign diplomats and media were permitted to attend three of the four trials. At year's end Pham Thanh Nghien, affiliated with the nine that were convicted, remained in detention without being charged.

Dissident author Tran Khai Thanh Thuy remained in detention in Hanoi pending trial on assault charges stemming from an October 8 incident in which she and her husband, Do Ba Tan, were attacked by unidentified individuals. Thuy was struck in the head with a brick but was herself charged with assault. Earlier on the same day, authorities stopped Thuy from travelling to Haiphong to attend the trial of the six Bloc 8406 activists. Police forcibly took Thuy back to Hanoi and ordered her to stay home indefinitely. On the previous day, October 7, police harassed Thuy after she joined the family of Vu Van Hung outside the site of his trial. In 2007 Thuy was jailed for nine months but was released in January 2008 after she was convicted of "disturbing the public order" and sentenced to time served.

Several high-profile dissidents remained in prison, including Catholic priest Nguyen Van Ly and human rights attorneys Nguyen Van Dai and Le Thi Cong Nhan.

Several of approximately 30 activists arrested in 2006-07 remained under investigation and under administrative detention without being formally charged.

Several political dissidents affiliated with outlawed political organizations, including Bloc 8406, the People's Democratic Party, People's Action Party, Free Vietnam Organization, DPV, the United Workers and Farmers Organization (UWFO), and others, remained in prison or under house arrest in various locations.

International nongovernmental organizations (NGOs) estimated that several hundred ethnic minority demonstrators associated with the 2004 Central Highlands protests remained in prison.

Civil Judicial Procedures and Remedies.—There is no clear or effective mechanism for pursuing a civil action to redress or remedy abuses committed by authorities. Civil suits are heard by administrative courts, civil courts, and criminal courts, all of which follow the same procedures as in criminal cases and are adjudicated by members of the same body of judges and lay assessors. All three levels were subject to the same problems of corruption, lack of independence, and inexperience.

By law a citizen seeking to press a complaint regarding a human rights violation by a civil servant is required first to petition the officer accused of committing the violation for permission to refer the complaint to the administrative courts. If a petition is refused, the citizen may refer it to the officer's superior. If the officer or his superior agrees to allow the complaint to be heard, the matter is taken up by the

administrative courts. If the administrative courts agree that the case should be pursued, it is referred either to the civil courts for suits involving physical injury seeking redress of less than 20 percent of health-care costs resulting from the alleged abuse, or to the criminal courts for redress of more than 20 percent of such costs. In practice this elaborate system of referral and permission ensured that citizens had little effective recourse to civil or criminal judicial procedures to remedy human rights abuses, and few legal experts had experience with the system.

Property Restitution.—In August the prime minister issued a decree that offers compensation, housing, and job training for individuals displaced by development projects. Nevertheless, there were widespread reports of official corruption and a general lack of transparency in the government's process of confiscating land and moving citizens to make way for infrastructure projects. By law citizens must be compensated when they are resettled to make way for infrastructure projects, but there were complaints, including from the National Assembly, that compensation was inadequate or delayed.

In July and August, Catholic parishioners in Quang Binh Province conducted several large-scale prayer vigils as a result of a property dispute with provincial authorities regarding the ruins of the Tam Toa Church in the city of Dong Hoi.

Some members of ethnic minority groups in the Central and Northwest Highlands continued to complain that they had not received proper compensation for land confiscated to develop large-scale state-owned coffee and rubber plantations. During the year authorities forcibly relocated 20,000 households due to the construction of a large hydropower project in Son La Province. Many of those resettled said that their loss was much greater than the state's compensation. Several residents attributed the cause of the earlier demonstrations in the Central Highlands to ethnic minority frustration and discontent over policies regarding state land use.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law prohibits such actions; however, the government did not respect these prohibitions in practice. Household registration and block warden systems existed for the surveillance of all citizens, although these systems were generally less intrusive than in the past. Authorities focused particular attention on persons suspected of being involved in unauthorized political or religious activities.

Forced entry into homes is not permitted without orders from the public prosecutor; however, security forces seldom followed these procedures but instead asked permission to enter homes, with an implied threat of repercussions for failure to cooperate. Police forcibly entered homes of a number of prominent dissidents, such as Nguyen Khac Toan, Nguyen Thanh Giang, Le Tran Luat, Nguyen Cong Chinh, and Do Nam Hai, and removed personal computers, cell phones, and other material.

Government authorities opened and censored targeted persons' mail; confiscated packages and letters; and monitored telephone conversations, e-mail, text messages, and fax transmissions. The government cut the telephone lines and interrupted the cell phone and Internet service of a number of political activists and their family members.

Membership in the CPV remained a prerequisite to career advancement for all government and government-linked organizations and businesses. However, economic diversification made membership in the CPV and CPV-controlled mass organizations less essential to financial and social advancement.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government continued to restrict these freedoms, particularly with respect to speech that criticized individual government leaders, promoted political pluralism or multiparty democracy, or questioned policies on sensitive matters such as human rights, religious freedom, or border disputes with China. The line between private and public speech continued to be arbitrary.

Both the constitution and the criminal code include broad national security and antidefamation provisions that the government used to restrict freedom of speech and of the press. The criminal code defines the crimes of "sabotaging the infrastructure of Socialism," "sowing divisions between religious and nonreligious people," and "conducting propaganda against the Socialist Republic of Vietnam" as serious offenses against national security. The criminal code also expressly forbids "taking advantage of democratic freedoms and rights to violate the interests of the State and social organizations."

Political activists and family members of prisoners were regularly and physically prevented from meeting with foreign diplomatic representatives. Tactics included setting up barriers or guards outside their residences or calling them into the local police station for random and repetitive questioning. One political activist reported

that her home was defiled by animal excrement and motor oil to intimidate her from speaking out against the government.

The CPV, government, and party-controlled mass organizations controlled all print, broadcast, and electronic media. The government exercised oversight through the Ministry of Information and Communication (MIC), under the overall guidance of the Communist Party Propaganda and Education Commission. These two bodies occasionally intervened directly to dictate or censor a story. In January, for example, censors removed mention of the battle of Khe San and the word “communism” from the official translation of a foreign leader’s speech. More often, however, control over media content was ensured through pervasive self-censorship, backed by the threat of dismissal and possible arrest.

Despite the continued growth of Internet blogs, the party and the government increased efforts to suppress press freedom, continuing a “rectification” campaign begun in March 2008. Reinforcing the message, in June Prime Minister Dung stated that “the press must serve as the reliable vanguard for the party, state, and people on the political and ideological front.” During the year several senior media editors and reporters were fired for their reporting on corruption and criticisms of government policies, and one publication was suspended as a result of its reporting on the 30th anniversary of the brief border war with China.

On January 2, three editors of leading newspapers Thanh Nien, Tuoi Tre, and Phap Luat were dismissed from their jobs as retribution for reporting related to a large-scale corruption scandal involving the Ministry of Transportation’s Project Management Unit Number 18 (PMU-18). These actions followed the October 2008 conviction of the two reporters who broke the story, Nguyen Viet Chien of Thanh Nien and Nguyen Van Hai of Tuoi Tre. Chien was sentenced to two years in prison but released during the January Tet amnesty. Hai received a two-year noncustodial “reeducation” sentence. Shortly after the arrests of Chien and Hai, the two newspapers replaced their senior editors. In August the government revoked the press cards of seven journalists from state-controlled newspapers for “lack of responsibility” in connection with their reports on the PMU-18 scandal.

In February the MPS shut down the online news portal www.timnhanh.com for disseminating political content critical of the CPV and for violating copyright laws. In April the biweekly newspaper Du Lich was suspended for three months for publishing an article on the 30th anniversary of the border war with China. In August two reporters with Tuoi Tre newspaper had their press cards revoked for “inaccuracies” in their reporting relating to corruption in 2005. Another journalist and blogger was fired in August from the Saigon Tiep Thi newspaper for his commentary and criticism of government policies.

The government continued to place tight restrictions on press stories involving disputes with China over contested territory in the South China Sea. In September Dao Duy Quat, editor in chief of the CPV Web site www.dangcongsan.vn, was fined 30 million VND (approximately \$1,670) and formally reprimanded by the propaganda office for reprinting an article that originally appeared in a Chinese newspaper on China’s military exercises in the South China Sea. The article appeared to endorse China’s land claims to the Spratly and Paracel Islands.

The law requires journalists to pay monetary damages to individuals or organizations whose reputations were harmed as a result of journalists’ reporting, even if the reports were true. Independent observers noted that the law severely limited investigative reporting. There were press reports on topics that generally were considered sensitive, such as the prosecution on corruption charges of high-ranking CPV and government officials, as well as occasional criticism of officials and official associations. Nonetheless, the freedom to criticize the CPV and its senior leadership remained restricted.

Foreign journalists must be approved by the Foreign Ministry’s press center, and they must be based in Hanoi, with the exception of one correspondent reporting solely on economic matters who lived and maintained an office in Ho Chi Minh City while officially accredited to Hanoi. Foreign journalists are required to renew their visas every three to six months, although the process was routine; there were no reports of any visa renewals being refused. The number of foreign media employees allowed was limited, and local employees who worked for foreign media also were required to register with the Foreign Ministry.

The procedure for foreign media outlets to hire local reporters and photographers and receive approval for their accreditation continued to be cumbersome. The press center nominally monitored journalists’ activities and approved, on a case-by-case basis, requests for interviews, photographs, filming, or travel, which must be submitted at least five days in advance. By law foreign journalists are required to address all questions to government agencies through the Foreign Ministry, although this procedure often was ignored in practice. Foreign journalists noted that they

generally did not notify the government about their travel outside of Hanoi unless it involved a story that the government would consider sensitive or they were traveling to an area considered sensitive, such as the Central Highlands.

In February the MIC tightened control over the import of foreign publications and operation of foreign publishers. Under new regulations the MIC has the authority to revoke licenses for foreign publishers, and each foreign publisher must reapply annually to maintain its license. Foreign-language editions of some banned books were sold openly by street peddlers and in shops oriented to tourists. Foreign-language periodicals were widely available in cities. Occasionally, the government censored articles.

The law limits satellite television access to top officials, foreigners, luxury hotels, and the press, but in practice persons throughout the country were able to access foreign programming via home satellite equipment or cable. Cable television, including foreign-origin channels, was widely available to subscribers living in urban areas.

Internet Freedom.—The government allows access to the Internet through a limited number of Internet service providers (ISPs), all of which were state-owned joint stock companies. Internet usage continued to grow throughout the year. According to the MIC, more than 25 percent of the population had access to the Internet, and according to a study by Yahoo, in large population centers close to 50 percent had access.

Blogging continued to increase rapidly. The MIC estimated that there were more than one million bloggers. In addition a number of prominent print and online news journalists maintained their own professional blogs. In several cases their blogs were considered far more controversial than their mainstream writing. In a few cases, the government fined or punished these individuals for the content of their blogs.

The number of persons who used social networking sites such as Facebook increased to well over one million, as did the number of domestic social networking sites. Early in the year, the media began reporting on the emergence of “microblogs” (e.g. Facebook’s status function and Twitter) as the replacement for traditional blogs; however, the number of users was very small. In November the government ordered ISPs to block Facebook. Although the government denied it had ordered the site blocked, employees at ISPs informed the media that they had received government orders to block the site. At year’s end most persons could not access Facebook.

The government forbids direct access to the Internet through foreign ISPs, requires domestic ISPs to store information transmitted on the Internet for at least 15 days, and also requires ISPs to provide technical assistance and workspace to public security agents to allow them to monitor Internet activities.

The government requires firms such as cybercafes to register the personal information of their customers and store records of Internet sites visited by customers. However, many cybercafe owners did not maintain these records. Similarly, it was not clear to what extent major ISPs complied with the many government regulations.

While citizens enjoyed increasing access to the Internet, the government monitored e-mail, searched for sensitive key words, and regulated Internet content. They claimed that censorship of the Internet was necessary to protect citizens from pornography and other “antisocial” or “bad elements.” They also claimed that efforts to limit Internet access by school-age users was intended to keep them from gaming at the expense of doing their schoolwork.

Government regulations prohibit bloggers from posting material that the government believes undermines national security or discloses state secrets, incites violence or crimes, or includes inaccurate information harming the reputation of individuals and organizations. The regulations also require global Internet companies with blogging platforms operating in the country to report to the government every six months and, if requested, to provide information about individual bloggers.

Officials construed article 88 of the criminal code, which bans “distributing propaganda against the state,” to prohibit individuals from downloading and disseminating documents that the government deemed offensive. Authorities continued to detain and imprison dissidents who used the Internet to publish ideas on human rights and political pluralism.

In May Tran Huynh Duy Thuc, the blogger known as Change We Need who regularly reported on corruption in the prime minister’s family, was arrested for running an illegal telephone business. Thuc was awaiting trial at year’s end.

In August political bloggers Bui Thanh Hieu (also known as Wind Trader) and Me Nam (also known as Momma Mushroom) were arrested in connection with their writings and political activism. Hieu was released 10 days after his initial arrest, while Nam was detained for 12 days. She announced on her Web site that she

agreed to stop blogging as a condition of her release. VietnamNet journalist Pham Doan Trang was also detained for 10 days due to her connections with Hieu and Nam. Also in August well-known journalist and prolific blogger Huy Duc was dismissed from his job with the Saigon Thiep Thi newspaper for his politically sensitive blog postings.

In October the government also closed down the Tia Sang (Ray of Light) online magazine registered under the Ministry of Science and Technology, reportedly for its previous reporting critical of the education system and on bauxite mining in the Central Highlands.

Prominent blogger and Free Journalist Club head Nguyen Hoang Hai (also known as Dieu Cay) remained in prison at year's end. His former wife was denied permission several times to meet with him, while his son was allowed one short meeting. At year's end he was reportedly being held in isolation. In September the UN Working Group on Arbitrary Detention highlighted his case, as well as the "illegal arrests" and continued persecution of a number of other Internet bloggers, including Truong Minh Duc, Pham Van Troi, Nguyen Xuan Nghia, Vu Hung, Ngo Quynh, and Pham Thanh Nghien. Tran Khai Thanh Thuy, a writer and journalist arrested in January 2008 under article 88 and subsequently released for medical treatment, was harassed several times throughout the year.

The government continued to use firewalls to block some Web sites that it deemed politically or culturally inappropriate, including sites affiliated with the Catholic Church, such as Vietcatholic.net and others operated by overseas Vietnamese political groups. The government appeared to have lifted most of its restrictions on access to the Voice of America Web site, although it continued to block Radio Free Asia (RFA) most of the time. Nevertheless, the local press occasionally wrote stories based on RFA broadcasts.

The MIC requires owners of domestic Web sites, including those operated by foreign entities, to register their sites with the government and submit their planned content and scope to the government for approval; however, enforcement remained selective.

Academic Freedom and Cultural Events.—The government asserts the right to restrict academic freedom, and authorities sometimes questioned and monitored foreign field researchers. Local librarians increasingly were being trained in professional skills and international standards that supported wider international library and information exchanges and research. Foreign academic professionals temporarily working at universities in the country were allowed to discuss nonpolitical topics widely and freely in classes, but government observers regularly attended classes taught by both foreigners and nationals. Security officials occasionally questioned persons who attended programs on diplomatic premises or used diplomatic research facilities. Nevertheless, requests for materials from foreign research facilities increased. Academic publications usually reflected the views of the CPV and the government.

Members of the academic community expressed concern over a prime ministerial decree issued in July (Decision 97) that prohibits independent scientific and technical organizations from publicly criticizing party and state policy as a potentially severe restriction on academic freedom. One prominent research institution, the Institute for Development Studies, chose to disband, arguing that it could not properly function under the restrictions.

The government controlled art exhibits, music, and other cultural activities; however, it generally allowed artists broader latitude than in past years to choose the themes for their works. The government also allowed universities more autonomy over international exchanges and cooperation programs.

b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—The freedom of assembly is limited by law, and the government restricted and monitored all forms of public protest or gathering. Persons wishing to gather in a group are required by law and regulation to apply for a permit, which local authorities can issue or deny arbitrarily. In practice only those arranging publicized gatherings to discuss sensitive matters appeared to require permits, and persons routinely gathered in informal groups without government interference. The government generally did not permit demonstrations that could be seen as having a political purpose. The government also restricted the right of several unregistered religious groups to gather in worship (see section 2.c.).

In July and August, large-scale prayer vigils occurred relating to a land dispute regarding the Tam Toa church ruins in Quang Binh Province. In July local authorities arrested eight parishioners in connection with the demonstrations; all had been released by September. A small mob attacked and beat two Catholic priests near the disputed site. One of the priests was pushed from a second-story window and

was hospitalized. The Tam Toa prayer vigils followed similarly large demonstrations and prayer vigils that took place in January, April, August, and September 2008 at disputed Catholic properties at the former papal nuncio's residence and at the Thai Ha parish in Hanoi. Smaller demonstrations by citizens demanding redress for land rights claims frequently took place in Ho Chi Minh City and occasionally in Hanoi. Police monitored these protests but generally did not disrupt them.

Freedom of Association.—The government severely restricted freedom of association. Opposition political parties were neither permitted nor tolerated. The government prohibited the legal establishment of private, independent organizations, insisting that persons work within established, party-controlled mass organizations, usually under the aegis of the VFF. However, some entities, including unregistered religious groups, were able to operate outside of this framework with little or no government interference.

Officials unevenly implemented the 2007 Ordinance on Grassroots Democracy, which allows villagers, with the participation of local VFF representatives, to convene meetings to discuss and propose solutions to local problems and nominate candidates for local leadership. The ordinance also requires commune governments to publicize how they raise and spend funds for local economic development.

Members of Bloc 8406, a political activist group that calls for the creation of a multiparty state, continued to face harassment and imprisonment. At least 25 members of the group were in detention at year's end.

Numerous members of several other activist groups, including the DPV, the People's Democratic Party of Vietnam, and a related group, the UWFO, remained in prison at year's end. In July several DPV leaders, including Tran Anh Kim and Nguyen Tien Trung, were arrested for their political activities.

c. Freedom of Religion.—The constitution and government decrees provide for freedom of worship, and improvements made in past years in overall respect for religious freedom continued during the year. The government persisted in placing restrictions on the organized activities of religious groups; however, in general restrictions were enforced less strictly than in previous years. Overall participation in religious activities continued to grow significantly.

Problems remained in the implementation of the Legal Framework on Religion. The problems occurred primarily at the local level, but in some instances the central government also delayed enforcement.

Religious groups encountered the greatest restrictions when they engaged in activities that the government perceived as political activism or a challenge to its rule. The government continued to discourage participation in an unrecognized faction of the Hoa Hao Buddhist Church. The government also restricted the activities and movement of the leadership of the unrecognized Unified Buddhist Church of Vietnam (UBCV) and maintained that it would not recognize the organization under its existing leadership. The government remained concerned that some ethnic minority groups active in the Central Highlands were operating a self-styled "Dega Church," which reportedly mixes religious practice with political activism and calls for ethnic minority separatism.

The government maintained a prominent role overseeing recognized religions. By law religious groups must be officially recognized or registered, and the activities and leadership of individual religious congregations must be approved by the appropriate authorities. The law mandates that the government act in a timely and transparent fashion, but the approval process for registration and recognition of religious organizations was sometimes slow and nontransparent. Nevertheless, dozens of Protestant congregations were newly registered throughout the country during the year, and one religious denomination received national registration. However, in the northern region and the Northwest Highlands, local authorities had not acted on most registration applications submitted since 2006 by more than 1,000 Protestant congregations among predominantly ethnic minority groups.

Some local authorities continued to demand that recognized religious organizations provide lists of all members of subcongregations as a precondition to registration, although this requirement is not specifically codified in the Legal Framework on Religion. Some registered congregations in the northern region and the Northwest Highlands complained that officials used such lists to keep unlisted members from participating in services or for harassment by local authorities or their agents. Annual activities by congregations also must be registered with authorities, and activities not on the accepted annual calendar require separate government approval.

Official oversight of religious groups varied widely between localities, often as a result of ignorance of national policy or varying local interpretations of the policy's intent. In general, central-level efforts to coordinate proper implementation of the government's religious framework reduced the frequency and intensity of religious

freedom violations. Nevertheless, activities of nonrecognized and unregistered religious groups remained technically illegal, and these groups occasionally experienced harassment. However, several large-scale Christmas celebrations were approved even though the organizers were largely unregistered Protestant house churches. The largest celebration was held in Ho Chi Minh City, where a reported 40,000 Christians participated, while celebrations in Hanoi, Danang, and northern Nam Dinh Province had 14,000, 4,500, and 2,500 participants, respectively.

Several “unregistered” religious gatherings were broken up or obstructed in the Northwest Highlands, amid accusations by religious practitioners that local authorities sometimes used “contract thugs” to harass or beat them. In Dien Bien there were reports that local officials encouraged Protestants to recant their faith. In Tra Vinh there were reports of repeated harassment and beatings by plainclothes “citizen brigades” at several house churches, including the Full Gospel Church. Authorities took no disciplinary action against the offenders. However, the level of harassment declined in comparison with previous years, and the vast majority of unregistered churches and temples were allowed to operate without interference.

The government actively discouraged contacts between the UBCV and its foreign supporters, although such contacts continued. Police routinely questioned some persons who were outspoken in their antigovernment political views, such as UBCV monks and certain Catholic priests. Police continued to monitor the movement of UBCV monks.

There were few credible allegations of forced renunciations in the Central and Northwest Highlands during the year.

The vast majority of Buddhists practiced their religion under the Vietnam Buddhist Sangha (VBS) Executive Council, the officially sanctioned Buddhist governing council, and generally were able to worship freely. Theravada Buddhists, who are also part of VBS and commonly members of the Khmer Krom ethnic minority, were also generally able to worship freely. The government continued to harass UBCV leadership and prevented them from conducting independent charitable activities outside their pagodas.

On June 29, a group of vigilantes attacked the meditation center and dormitories of a group of Lang Mai (Plum Village) Buddhists, who are followers of internationally renowned Zen Master Thich Nhat Hanh, inside the Bat Nha monastery compound in Lam Dong Province. The attack occurred in the presence of uniformed and plainclothes police, who did nothing to prevent it. Resident Bat Nha monks, opposed to the Lang Mai group's presence in the pagoda, isolated the group and cut off their water and electricity from June until the end of September. The National Committee for Religious Affairs (CRA) instructed local authorities to evict the Lang Mai community from the pagoda, failed to prevent the attacks and punish those involved, and appeared to favor one side in the dispute. On September 27, a large mob in coordination with plainclothes police beat and forcibly evicted approximately 150 Lang Mai monks from the Bat Nha pagoda. The monks then sought refuge at the nearby Phuoc Hue pagoda. On September 28, the remaining 200 Lang Mai nuns were also forcibly evicted and joined the monks at Phuoc Hue. In November two pagodas in Dong Nai and Lam Dong provinces petitioned the central VBS and CRA to allow them to sponsor the Plum Village monks and nuns. The CRA rejected these petitions, claiming that the Plum Village Community “failed to obey the law” and “caused disunity” among Buddhists, and it ordered the Lam Dong provincial VBS to force the monks and nuns to disband and return to their home provinces by December 31. Another group of 21 Lang Mai monks and nuns were forcibly evicted from a pagoda in Khanh Hoa Province on November 29. One senior monk was under house arrest in Khanh Hoa, and another was reported to be in hiding. The provincial VBS had not taken action by the end of the year, and the Plum Village Community continued to seek refuge at the Phuoc Hue pagoda.

Senior UBCV leaders remained under police surveillance at their pagodas and reported limited ability to travel within the country. Thich Quang Do and Thich Khong Thanh were able to attend the funeral of the UBCV patriarch in July 2008, and other UBCV leaders were allowed to attend a ceremony marking the one-year anniversary of the passing of the patriarch without incident.

Hoa Hao monks and believers following the government-approved Hoa Hao Administrative Council were allowed to practice their faith. Monks and followers who belonged to dissident groups or declined to recognize the authority of the council suffered restrictions.

The Catholic Church reported that the government continued to ease restrictions on assignment of new clergy and did not object to the installation of three new bishops during the year. The Church discussed establishing additional seminaries with the government and expanded its pastoral works program. On February 16-17, the government and the Vatican held their first round of discussions in Hanoi

under a newly created “Joint Vietnam-Holy See Working Group” on reestablishing diplomatic relations. On December 11, State President Nguyen Minh Triet met with Pope Benedict XVI in the Vatican for a meeting that the Vatican characterized as “a significant stage in the progress of bilateral relations with Vietnam.”

A number of Catholic clergy reported a continued easing of government control over activities in certain dioceses outside of Hanoi. In many places local government officials allowed the Catholic Church to conduct religious education classes (outside regular school hours) and charitable activities. The Ho Chi Minh City government continued to facilitate certain charitable activities of the Church in combating HIV/AIDS; however, educational activities and legal permits for some Catholic charities to operate as NGOs remained suspended.

Local officials informally discouraged some clergy from traveling domestically, even within their own provinces, especially when travel to ethnic minority areas was involved. The Catholic archbishop of Hanoi was restricted in his official travels to ethnic minority areas in the north.

Despite some reports of discrimination against Catholic students, authorities denied that the government has a policy of limiting access to education based on religious belief.

Religious organizations were not allowed to operate schools independently. Foreign missionaries may not operate openly as religious workers in the country, although many undertook humanitarian or development activities with government approval and met with registered congregations.

The government generally required religious publishing to be done through a government-owned religious publishing house; however, some religious groups were able to copy their own materials or import them, subject to government approval. The government allowed the printing and importation of some religious texts, including in ethnic minority languages.

Societal Abuses and Discrimination.—There were few instances of societal violence based on religious affiliation, belief, or practice during the year. Members of minority religious groups experienced little or no societal discrimination. There are small Jewish expatriate communities in Hanoi and Ho Chi Minh City, with a permanent Chabad-Lubavitch center in Ho Chi Minh City. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at www.state.gov/j/drl/rls/irf/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation; however, the government imposed some limits on freedom of movement for certain individuals. The government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Several political dissidents, amnestied with probation or under house arrest, were subject to official restrictions on their movements, but police allowed them to venture from their homes under surveillance. Although their probation ended during the year, authorities prohibited dissidents Nguyen Khac Toan and Tran Khai Thanh Thuy from receiving a passport and traveling overseas. Attorney Le Quoc Quan and journalist Nguyen Vu Binh were allowed to travel within the country but continued to face restrictions on their ability to travel overseas. In July authorities prevented a member of the Democracy Writers of Dalat from leaving the country due to national security provisions.

A government restriction regarding travel to certain areas remained in effect. It requires citizens and resident foreigners to obtain a permit to visit border areas, defense facilities, industrial zones involved in national defense, areas of “national strategic storage,” and “works of extreme importance for political, economic, cultural, and social purposes.”

The 2007 Law on Residence was not broadly implemented, and migration from rural areas to cities continued unabated. However, moving without permission hampered persons seeking legal residence permits, public education, and health-care benefits.

Foreign passport holders must register to stay in private homes, although there were no known cases of local authorities refusing to allow foreign visitors to stay with friends and family. Citizens were also required to register with local police when staying overnight in any location outside of their own homes; the government appeared to enforce these requirements more strictly in some districts of the Central and Northern Highlands.

Officials occasionally delayed citizens' access to passports in order to extort bribes, but prospective emigrants rarely encountered difficulties obtaining a passport.

The law does not provide for forced internal or external exile, and the government did not use it.

The government generally permitted citizens who had emigrated abroad to return to visit. However, the government refused to allow certain activists living abroad to return. Known overseas Vietnamese political activists were denied entrance visas or were detained and deported after entering the country.

By law the government considers anyone born to at least one Vietnamese citizen parent to be a citizen; there are also provisions for persons who do not have a Vietnamese-citizen parent to acquire Vietnamese citizenship under certain conditions. Emigrants who acquire another country's citizenship are generally considered Vietnamese citizens unless they formally renounce their Vietnamese citizenship. However, in practice the government treated overseas Vietnamese as citizens of their adopted country and did not permit them to use Vietnamese passports after they acquired other citizenship. Legislation passed in 2008 sought to clarify this apparent discrepancy by allowing for dual citizenship. The government generally encouraged visits and investment by such persons but sometimes monitored them carefully. During the year the government continued to liberalize travel restrictions for overseas Vietnamese.

The government continued to honor a tripartite memorandum of understanding signed with the government of Cambodia and the UNHCR to facilitate the return from Cambodia of all ethnic Vietnamese who did not qualify for third-country resettlement.

Local government authorities observed but did not hinder fact-finding and monitoring visits by UNHCR and foreign diplomatic representatives to the Central Highlands. The UNHCR reported that it was able to meet with returnees in private. Foreign diplomats experienced some resistance from lower-level officials in permitting private interviews of returnees. As in previous years, local police officials sometimes were present during foreign diplomat interviews with returnees but left when asked. Provincial governments generally continued to honor their obligations to reintegrate peacefully ethnic minority returnees from Cambodia.

The UNHCR, which conducted several monitoring trips throughout the year, reported that conditions for ethnic minorities in the Central Highlands had improved markedly since the 2001 and 2004 crackdowns, stating that there was "no perceptible evidence of mistreatment" of any of the ethnic minority individuals it monitored in the Central Highlands.

Protection of Refugees.—The country is not a signatory to the 1951 Convention relating to the Status of Refugees and its 1967 protocol, and the law does not provide for the granting of asylum or refugee status. The government has not established a system for providing protection to refugees and did not grant refugee status or asylum. Government regulations and policy do not explicitly provide protection against the expulsion or return of persons where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion; however, there were no such reported cases during the year.

Stateless Persons.—The country's largest stateless group consisted of approximately 9,500 Cambodian residents who sought refuge in Vietnam in the 1970s and were denied the right to return by the government of Cambodia, which asserted that no proof existed that these individuals had ever possessed Cambodian citizenship. Almost all were ethnic Chinese or Vietnamese who were initially settled in four refugee camps in and around Ho Chi Minh City. When humanitarian assistance in these camps ceased in 1994, an estimated 7,000 refugees left the camps in search of work and opportunities in Ho Chi Minh City and the surrounding area. A further 2,300 remained in four villages in which the camps once operated. Many had children and grandchildren born in Vietnam, but neither the original refugees nor their children enjoyed the same rights as Vietnamese citizens, including the right to own property, comparable access to education, and public medical care. Citizenship of children is derived from their parents. In 2007 the UNHCR and the government of Vietnam developed a plan calling for a full survey and Vietnamese naturalization of these stateless individuals; the survey and naturalization continued and were expected to be completed before the end of 2010. By year's end 1,800 applications for naturalization had been submitted to the Office of the President for final approval.

The government resolved earlier problems of statelessness due to involuntary denaturalization of its citizens, such as women who married foreigners, by implementing new legislation passed in November 2008 allowing dual citizenship. This group typically consisted of women who married Chinese, Korean, or Taiwanese

men. Previously the women had to renounce their Vietnamese citizenship to apply for foreign citizenship, but before gaining foreign citizenship, they divorced their husbands and returned to Vietnam without possessing any citizenship or supporting documentation. The UNHCR worked with the government and the international community to address other aspects of this problem.

The Vietnam Women's Union continued to work with the government of South Korea to address international marriage brokering and premarriage counseling, including education on immigration and citizenship regulations. Some domestic and international NGOs provided assistance.

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

The constitution does not provide for the right of citizens to change their government peacefully, and citizens could not freely choose and change the laws and officials that govern them.

Elections and Political Participation.—The most recent elections to select members of the National Assembly were held in 2007. The elections were neither free nor fair, since all candidates were chosen and vetted by the VFF. Despite the CPV's early announcement that a greater number of "independent" candidates (those not linked to a certain organization or group) would run in the elections, the ratio of independents was only slightly higher than that of the 2002 election. The CPV approved 30 "self-nominated" candidates, who did not have official government backing but were given the opportunity to run for office. There were credible reports that party officials pressured many self-nominated candidates to withdraw or found such candidates "ineligible" to run.

According to the government, more than 99 percent of the 56 million eligible voters cast ballots in the election, a figure that international observers considered improbably high. Voters were permitted to cast ballots by proxy, and local authorities were charged with ensuring that all eligible voters cast ballots by organizing group voting and that all voters within their jurisdiction were recorded as having voted. This practice was seen as having greatly detracted from the transparency and fairness of the process.

In the 2007 election, CPV leaders—Prime Minister Nguyen Tan Dung, Party Chief Nong Duc Manh, President Nguyen Minh Triet, and National Assembly Chairman Nguyen Phu Trong—retained their seats. CPV candidates took 450 of 493 seats. Only one of the 30 self-nominated candidates won.

The National Assembly, although subject to the control of the CPV (all of its senior leaders and more than 90 percent of its members were party members), continued to take incremental steps to assert itself as a legislative body. The National Assembly publicly criticized socioeconomic policies, corruption, the government's handling of inflation, and the plan to mine bauxite in the Central Highlands. Assembly sessions were televised live countrywide. Some legislators also indirectly criticized the CPV's preeminent position in society.

All authority and political power is vested in the CPV, and the constitution recognizes the leadership of the CPV. Political opposition movements and other political parties are illegal. The CPV Politburo functioned as the supreme decision-making body in the country, although technically it reports to the CPV Central Committee.

The government continued to restrict public debate and criticism severely. No public challenge to the legitimacy of the one-party state was permitted; however, there were instances of unsanctioned letters critical of government policy from private citizens, including some former senior party members. The most prominent of these involved widely publicized letters from General Vo Nguyen Giap criticizing the government's decision to allow substantial foreign investment in bauxite-mining projects in the Central Highlands. The government continued to crack down on the small opposition political groupings established in 2006, and members of these groups faced arrests and arbitrary detentions.

The law provides the opportunity for equal participation in politics by women and minority groups. There were 127 women in the National Assembly, or 26 percent, a slightly lower percentage than in the previous assembly.

Ethnic minorities held 87 seats, or 18 percent, in the National Assembly, exceeding their proportion of the population, estimated at 13 percent.

Section 4. Official Corruption and Government Transparency

The law provides for criminal penalties for official corruption; however, the government did not always implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. Corruption continued to be a major problem. The government persisted in efforts to fight corruption, including publicizing budgets of different levels of government, refining a 2007 asset declaration decree,

and continuing to streamline government inspection measures. Cases of government officials accused of corruption sometimes were widely publicized.

The anticorruption law allows citizens to complain openly about inefficient government, administrative procedures, corruption, and economic policy. In regular Internet chats with high-level government leaders, citizens asked pointed questions about anticorruption efforts. However, the government continued to consider public political criticism a crime unless the criticism was controlled by authorities. Attempts to organize those with complaints to facilitate action are considered proscribed political activities and subject to arrest. Senior government and party leaders traveled to many provinces, reportedly to try to resolve citizen complaints. Corruption related to land use was widely publicized in the press, apparently in an officially orchestrated effort to bring pressure on local officials to reduce abuses.

According to the asset declaration decree, government officials must annually report by November 30 the real estate, precious metals, and "valuable papers" they own; money they hold in overseas and domestic bank accounts; and their taxable income. The government must publicize asset declaration results only if a government employee is found "unusually wealthy" and more investigation or legal proceedings are needed. In addition to senior government and party officials, the decree applies to prosecutors, judges, and those at and above the rank of deputy provincial party chief, deputy provincial party chairperson, deputy faculty head at public hospitals, and deputy battalion chief. Due to a lack of transparency, it was not known how widely the decree was enforced.

In January Vu Chi Thanh, a former vice chairman of Haiphong People's Committee, and eight other officials and civil servants from Haiphong were prosecuted for having inappropriately allocated hundreds of land lots from an "urban housing project for the poor" to family members and officials from various offices in Haiphong.

In February police in Ho Chi Minh City arrested the deputy director of the municipal transport service, Huynh Ngoc Si, and his associate Le Qua on charges of "abusing power while on official duty" connected with allegations that they had received a bribe of 90 million yen (approximately \$820,000) from officials of Pacific Consultants International (PCI), a foreign consulting firm. On September 24, the case against Si and his deputy went to trial. The court case focused on the much narrower question of whether Si and Qua accepted 52 million VND (\$2,900) and 54 million VND (\$3,000), respectively, in kickbacks from office rent from PCI. On September 25, Si and Qua were convicted and sentenced to three and two years' imprisonment, respectively, although legal guidelines recommended sentences of at least 15 years.

In June a foreign government initiated a comprehensive bribery investigation related to the supply of polymer bank notes to Vietnam. The foreign company that won a contract for supplying polymer notes to the State Bank of Vietnam in 2002 was accused of paying more than \$12 million as commission to its Vietnamese partner Luong Ngoc Anh and his firm, Company For Technology and Development, which employed Le Duc Minh, son of former State Bank of Vietnam governor Le Duc Thuy.

Also in June former PMU-18 director Bui Tien Dung was charged with "intentionally violating state economic regulations causing serious consequences," and four of Dung's colleagues were charged with embezzlement. At year's end eight key corruption cases originating in 2007 remained unfinished, including the PMU-18 and the Bai Chay bridge project scandals. While the 2007 trial and conviction of officials involved in the PMU-18 scandal were initially hailed as a positive step, the subsequent prosecution and dismissal of journalists and editors who reported the story had a chilling effect on investigative reporting of official corruption.

The law does not provide for public access to government information, and the government did not usually grant access for citizens and noncitizens, including foreign media. In accordance with the Law on Promulgation of Legal Normative Documents, the Official Gazette published most legal documents in its daily edition. The government maintained a Web site in both Vietnamese and English, as did the National Assembly. In addition, decisions made by the Supreme People's Court Council of Judges were accessible through the SPC Web site. Party documents such as politburo decrees were not published in the Gazette.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The government does not permit private, local human rights organizations to form or operate. The government did not tolerate attempts by organizations or individuals to comment publicly on its human rights practices, and it used a wide variety of methods to suppress domestic criticism of its human rights policies, including sur-

veillance, limits on freedom of the press and assembly, interference with personal communications, and detention.

The government generally prohibited private citizens from contacting international human rights organizations, although several activists did so. The government usually did not permit visits by international NGO human rights monitors; however, it allowed representatives from the press, the UNHCR, foreign governments, and international development and relief NGOs to visit the Central Highlands. The government criticized almost all public statements on human rights and religious matters by international NGOs and foreign governments.

During the year the government invited five UN special rapporteurs/independent experts, including rapporteurs on education; physical and mental health; and the right to food, and the independent experts on extreme poverty and the effects of foreign debt on human rights. Three other special rapporteurs—on the right to freedom of opinion and expression; on extrajudicial, summary, or arbitrary executions; and on freedom of religion or belief—requested to visit but were denied.

In October an overseas university and the CPV hosted an international conference on “Realizing the Rights to Health and Development for All.” Several international human rights NGOs attended and presented papers, although at least one NGO was prohibited from attending. The forum focused on HIV/AIDS and other public health threats, maternal and child health, climate change, and economic globalization.

The government was willing to discuss human rights problems bilaterally with some foreign governments, and several foreign governments continued official talks with the government concerning human rights, typically through annual human rights dialogues.

In March a foreign embassy funded the creation of the Center for Human Rights Research in Ho Chi Minh City. The center, similar to one in Hanoi, is affiliated with the Ho Chi Minh City national law school and focused on supporting human rights training and research at law schools.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status; however, enforcement of these prohibitions was uneven.

Women.—The law prohibits using or threatening violence, taking advantage of a person who cannot act in self-defense, or resorting to trickery to have sexual intercourse with a person against that person’s will. This appears to criminalize rape, spousal rape, and in some instances sexual harassment; however, there were no known instances of prosecution for spousal rape or sexual harassment. Other rape cases were prosecuted to the full extent of the law. No reliable data were available on the extent of the problem.

Domestic violence against women was considered common, although there were no firm statistics measuring the extent of the problem. Officials increasingly acknowledged it as a significant social concern, and it was discussed more openly in the media. The law prescribes punishment ranging from warnings to a maximum of two years’ imprisonment for “those who cruelly treat persons dependent on them.” The Law on Domestic Violence Prevention and Control specifies acts constituting domestic violence, assigns specific portfolio responsibilities to different government agencies and ministries, and stipulates punishments for perpetrators of domestic violence; however, NGO and victim advocates considered many of the provisions to be weak. While the police and legal system generally remained unequipped to deal with cases of domestic violence, the government, with the help of international and domestic NGOs, continued to train police, lawyers, and legal system officials in the law.

Several domestic and international NGOs worked on the problem of domestic violence. Hotlines for victims operated by domestic NGOs existed in major cities. The Center for Women and Development, supported by the Vietnam Women’s Union, also operated a nationwide hotline, although it was not widely advertised in rural areas. While rural areas often lacked the financial resources to provide crisis centers and domestic hotlines, the 2007 law established “reliable residences” allowing women to turn to another family while local authorities and community leaders attempt to confront the abuser and resolve complaints. Government statistics reported that approximately half of all divorces were due in part to domestic violence. The divorce rate continued to rise, but many women remained in abusive marriages rather than confront social and family stigma as well as economic uncertainty.

The government, with the help of international NGOs, supported workshops and seminars aimed at educating women and men about domestic violence and women’s rights in general and also highlighted the problem through public awareness campaigns. Domestic NGOs were increasingly engaged in women’s issues, particularly violence against women and trafficking of women and children. A foreign govern-

ment, in coordination with the UN, sponsored production of a film entitled *Breaking the Silence*. The film was shown nationally by the government to raise public awareness on domestic violence.

Prostitution is illegal, but enforcement was uneven. Estimates varied widely; the government reported more than 30,000 prostitutes, but some NGOs estimated that there were more, including those who engaged in prostitution part-time or seasonally. As in past years, some women reportedly were coerced into prostitution, often victimized by false promises of lucrative employment. Many more felt compelled to work as prostitutes because of poverty and a lack of other employment opportunities. There were fewer reports that parents coerced daughters into prostitution or made extreme financial demands that compelled them to engage in prostitution. The Women's Union as well as international and domestic NGOs engaged in education and rehabilitation programs to combat these abuses.

The act of sexual harassment and its punishment is clearly defined in the law; however, its prevention is not specified in legal documents. Publications and training on ethical regulations for government and other public servants do not mention the problem, although it existed.

Victims of sexual harassment may contact social associations such as the Women's Union to request their involvement. In serious cases victims may sue offenders under article 121 of the penal code, which deals with "humiliating other persons" and specifies punishments that include a warning, noncustodial reform for up to two years, or a prison term ranging from three months to two years. However, in reality sexual harassment lawsuits were unheard of, and most victims were unwilling to denounce the offenders publicly.

The law restricts the number of children per couple to two. The government primarily implemented the policy through media campaigns that strongly encouraged individuals to practice family planning. However, the government also enforced the policy by denying promotions and salary increases to public sector employees with more than two children, albeit in an inconsistent manner.

The law affirms an individual's right to choose contraceptive methods as well as access to gynecological diagnosis, treatment, and health check-ups during pregnancies. It also provides for medical services when giving birth at health facilities, and officials generally enforced the law. However, unmarried women in reproductive ages had limited or no access to subsidized contraceptives, due to government policy and lack of access in rural areas. Women were equally diagnosed and treated for sexually transmitted diseases, including HIV.

Women continued to face societal discrimination. Despite the large body of legislation and regulations devoted to the protection of women's rights in marriage and in the workplace, as well as labor code provisions that call for preferential treatment of women, women did not always receive equal treatment.

Societal bias in favor of male progeny has led to gender imbalance among newborns and children, although with great variability among provinces.

The CPV-affiliated Women's Union and the government's National Committee for the Advancement of Women (NCFAW) continued to promote women's rights, including political, economic, and legal equality and protection from spousal abuse. The Women's Union also operated microcredit consumer finance programs and other programs to promote the advancement of women. The NCFAW continued implementing the government's national strategy on the advancement of women. Key areas of this strategy focused on placing more women in senior ministry positions and in the National Assembly. The strategy also focused on increasing literacy rates, access to education, and health care.

Children.—Citizenship is derived from one's parents (*jus sanguinis*), although persons born to non-Vietnamese parents can also acquire citizenship under certain circumstances. Not all births were registered immediately, but this was sometimes the result of an uneducated populace. A birth certificate is required for public services, such as education and health care, and the choice by some parents, especially ethnic minorities, to not register their children affected the ability to enroll them in school and receive government-sponsored care.

Education is compulsory, free, and universal through the age of 14; however, authorities did not always enforce the requirement, especially in rural areas, where government and family budgets for education were strained and children's contribution as agricultural laborers was valued.

Anecdotal evidence suggested that child abuse occurred, but there was no information on the extent of such abuse.

Child prostitution, particularly of girls but also of boys, existed in major cities. Many prostitutes in Ho Chi Minh City were under 18 years of age. Some minors entered into prostitution for economic reasons. The penal code, issued in 1999 and updated during the year, criminalizes all acts of sale, fraudulent exchange, or con-

trol of children as well as all acts related to child prostitution and forced child labor. These articles carry sentences ranging from three years' to life imprisonment and fines from 5 million VND to 50 million VND (\$280 to \$2,800). Articles 254, 255, and 256 describe acts related to child prostitution, including harboring prostitution (sentences of imprisonment ranging from 12 to 20 years), brokering prostitution (sentences of imprisonment ranging from seven to 15 years), and buying sex with minors (sentences ranging from three to 15 years). Similarly, the 1991 Law on Protection, Care, and Education of Children prohibits all acts of cruel treatment, humiliation, abduction, sale, and coercion of children into any activities harmful to their healthy development. The 2004 revised version has an additional chapter on protection and care of disadvantaged children.

Statutory rape is illegal under article 111 of the criminal code. Statutory rape can result in life imprisonment or capital punishment. Penalties for sex with minors between the ages of 16 and 18, dependent upon the circumstances, vary from five to 10 years in prison. The minimum age of consensual sex is 18. The production, distribution, dissemination, or selling of child pornography is illegal under article 253 of the criminal code and carries a sentence of three to 10 years' imprisonment.

The government's National Program of Action for Children for 2001-10 aimed to create the best conditions to meet demands and rights of every child, prevent and eliminate child abuse, and implement programs to prevent child trafficking, child prostitution, and child pornography. The government also promulgated the Program on Prevention and Resolution of the Problems of Street Children, Sex-abused Children, and Children Being Overworked and Working in Poisonous and Dangerous Conditions for 2004-10. The program had separate projects for prevention of sexual child abuse; communication, advocacy, and capacity enhancement for program management; prevention of and support for street children; and prevention of hazardous and dangerous working conditions for children. Initial assessments indicated that these measures provided an important legal basis for children's matters and that most local governments, departments, and unions supported these efforts. A lack of funding and a clear understanding of responsibilities, along with unclear implementation guidance, hindered implementation in certain localities.

According to the Ministry of Labor, Invalids, and Social Affairs (MOLISA), there were an estimated 23,000 street children, who were sometimes abused or harassed by police. MOLISA managed two centers to provide support for children in needy situations. Youth unions also launched awareness campaigns.

Trafficking in Persons.—The law prohibits most forms of trafficking in persons; however, labor and the recruiting and harboring of trafficking victims is not adequately covered. Trafficking, particularly for sexual exploitation but also for forced labor overseas, remained a significant problem. Reliable statistics on the number of citizens who were victims of sex-related trafficking were not available; nevertheless, there was evidence that the number was growing. Documentation of known trafficking cases as well as the level of case adjudications and prosecutions increased, although government statistics also included other crimes, such as the selling of infants. The government was generally increasingly open in identifying and prosecuting trafficking cases, and public awareness increased. As the country's economy continued to grow, international and domestic criminal organizations involved in human trafficking sought to take advantage of increased exposure to international markets, expanded use of the Internet, and a growing gap between rich and poor to exploit persons at risk and develop trafficking networks.

The country remained a significant source for trafficking in persons. To a much lesser degree, it was a destination country for men, women, and children trafficked for the purposes of sexual exploitation or forced labor. Women were trafficked primarily to Cambodia, Malaysia, China, Taiwan, and South Korea for sexual exploitation. Women also were trafficked to Hong Kong, Macau, Thailand, Indonesia, the United Kingdom, Eastern Europe, and the United States. There were reports that some women going to Taiwan, Hong Kong, Macau, South Korea, and China for arranged marriages became victims of trafficking. Women and children also were trafficked within the country, usually from rural to urban areas. Victims of labor trafficking (primarily men but also women and children) were trafficked to work in construction, agriculture, fishing, manufacturing, and other commercial enterprises.

There were continued reports of women from Ho Chi Minh City and the Mekong Delta forced into prostitution after marrying abroad, primarily in other Asian countries. After their arrival, women were forced into conditions similar to indentured servitude; some were forced into prostitution.

Children were trafficked for the purpose of prostitution, both within the country and to foreign destinations. An NGO advocate estimated that the average age of trafficked girls was between 15 and 17. Some reports indicated that the ages of girls trafficked to Cambodia typically were lower.

There were documented cases of trafficking in adults for labor. These included men trafficked to Malaysia and Thailand to support construction industry projects, women who went to work as domestic employees in Malaysia and suffered conditions akin to involuntary servitude, fishermen taken to work in Taiwan, and men and boys trafficked to work in brick factories in China. Deceitful and fraudulent overseas labor contracts and recruiting remained problems, although the government began to take steps to regulate labor export, including conducting inspections, issuing fines, and revoking the licenses of at least two companies who were found to be violating labor laws. Pursuant to a government circular issued in 2007, the government also began to cap some recruitment fees. The government signed agreements with governments of labor-demand countries; however, these did not appear to have adequate provisions to prevent human trafficking and protect victims of trafficking from conditions of forced labor and debt bondage. MOLISA reported that some workers of state-owned labor companies who went abroad to work suffered conditions akin to involuntary servitude or forced labor. Some workers also had their travel documents illegally withheld. Methods for resolving disputes between workers and their Vietnam-based export labor recruiting companies or the employing companies overseas were typically set forth in the initial contracts signed between the workers and the export labor recruiting companies and typically favored management. By law workers are entitled to bring their cases to court if they believe they have been unjustly treated by the labor export-recruiting company, although in practice few had the resources to do so.

Poor women and teenage girls, especially those from rural areas, were most at risk for being trafficked. Research by the MPS and the UN Children's Fund indicated that trafficking victims could come from any part of the country but were concentrated in certain northern and southern border provinces, especially in the Mekong Delta. Some were sold by their families as domestic workers or for sexual exploitation. In some cases traffickers paid families several hundred dollars in exchange for allowing their daughters to go to Cambodia for an "employment offer." Many victims faced strong pressure to make significant contributions to the family income; others were offered lucrative jobs by acquaintances. False advertising, debt bondage, confiscation of documents, and threats of deportation were other methods commonly used by the traffickers, family members, and employers.

Individual opportunists, informal networks, and some organized groups lured poor, often rural, women with promises of jobs or marriage and forced them to work as prostitutes. Relatives were often involved in trafficking cases. The government stated that in some cases organized criminal groups were involved in recruitment, transit, and other trafficking-related activities.

The majority of traffickers were prosecuted under articles 119 and 120 of the penal code, which provides for prison sentences of two to 20 years for persons found guilty of trafficking women, and between three years and life in prison for persons found guilty of trafficking children. These provisions can be used against some forms of trafficking for sexual and labor exploitation and also a variety of related crimes, including the selling of infants. Labor laws do not provide criminal penalties for labor trafficking, and the government did not report any investigations, prosecutions, or convictions of offenders of labor trafficking under other statutes.

The government continued to increase efforts to prosecute traffickers. As in previous cases, in Ho Chi Minh City the courts imposed heavy sentences on convicted sex traffickers, including two individuals sentenced on July 3 to 10 and 12 years in prison for operating a fake marriage brokering service that sent 28 women to Malaysia and forced them into prostitution.

A national steering committee, led by the MPS, coordinated government efforts in the identification and prosecution of trafficking cases and assisted in prevention and training activities. The Criminal Police Department of the MPS, the Ministry of Justice, the Border Guard Command, and the Social Evils Department of MOLISA were the main government agencies involved in combating trafficking, with significant collaboration from the Women's Union. The committee continued to train national and local officials to combat trafficking. Police took an increasingly active role in investigating cross-border sex trafficking cases during the year, including continued development of the dedicated antitrafficking force.

While convictions were up, the 375 cases investigated during the year represented a slight decrease compared with 2008. However, since 2005 the level of investigations and prosecutions has grown, generally reflecting an overall increase in the government's capacity to identify cases as well as a dramatic improvement in the training of local officials.

The government continued to implement its 2004-10 National Program of Action on combating trafficking in women and children as well as its export labor law and directives on recruitment and contracting transparency. Throughout the year the

MPS developed guidelines on protecting victims during investigation and prosecution in cooperation with the International Organization for Migration.

Mass organizations and NGOs operated programs to educate at-risk persons about the potential for sex trafficking and to reintegrate into society women and children who were the victims of sex trafficking. During the year programs continued to provide protection and reintegration assistance for sex trafficking victims through psychosocial support and vocational training as well as to supplement regional and national prevention efforts by targeting at-risk populations. Official institutions, including MOLISA and the Department of the Family, and mass organizations, such as the Women's Union and the Youth Union, continued programs aimed at the prevention of sex trafficking, public awareness, and victims' protection. Government agencies worked with the International Organization for Migration, Asia Foundation, Pacific Links Foundation, and other international NGOs to provide temporary shelter, medical services, education, credit, counseling, and rehabilitation to returned trafficking victims. Security agencies with border control responsibility received training in investigative techniques to prevent trafficking.

The government worked with international NGOs to supplement and strengthen law enforcement measures and institutions and cooperated with foreign governments to prevent trafficking. It also cooperated closely with other countries within the frameworks of Interpol, its Asian counterpart, and the Association of Southeast Asian Nations. On January 7, the government signed a bilateral antitrafficking agreement with Thailand, upgrading the previous bilateral memorandum of understanding, and on March 9 held a bilateral conference to discuss implementation. Between July 15 and September 15, the two countries conducted a joint public awareness campaign on preventing and combating sex trafficking in the areas along their shared border.

The Department of State's annual Trafficking in Persons Report can be found at www.state.gov/j/tip.

Persons With Disabilities.—The protection of persons with disabilities is provided for in articles 59 and 67 of the constitution. The Law on Disabled Persons prohibits discrimination against or maltreatment of persons with disabilities. The law also encourages the employment of persons with disabilities.

The provision of services to such persons, although limited, improved during the year. The Ministry of Transportation continued to implement accessibility codes for public transportation facilities and trained transportation agency officials and students on use of the codes. Construction or major renovation of new government and large public buildings must include access for persons with disabilities. The Ministry of Construction maintained enforcement units in Hanoi, Ho Chi Minh City, Danang, Quang Nam, and Ninh Binh to enforce the barrier-free codes.

The law provides for preferential treatment for firms that recruit persons with disabilities and for fines on firms that do not meet minimum quotas that reserve 2 to 3 percent of their workforce for workers with disabilities; however, the government enforced these provisions unevenly. Firms that have 51 percent of their employees with disabilities can qualify for special government-subsidized loans.

The government respected the political and civil rights of persons with disabilities. Under the election law, ballot boxes may be brought to the homes of individuals unable to go to a polling station.

The government supported the establishment of organizations aiding persons with disabilities. Such persons were consulted in the development or review of national programs, such as the national poverty reduction program, vocational laws, and various educational policies. The National Coordination Committee on Disabilities and its ministry members worked with domestic and foreign organizations to provide protection, support, physical access, education, and employment. The government operated a small network of rehabilitation centers to provide long-term, inpatient physical therapy. Several provinces, government agencies, and universities had specific programs for those with disabilities. In April the Ministry of Education and Training held a workshop with foreign-based NGOs and a foreign government to make recommendations for the Law on Disabled Persons regarding the education and training of the disabled.

National/Racial/Ethnic Minorities.—Although the government officially prohibits discrimination against ethnic minorities, longstanding societal discrimination against ethnic minorities persisted. Despite the country's significant economic growth, some ethnic minority communities benefited little from improved economic conditions.

Some members of ethnic minority groups continued to leave for Cambodia and Thailand, reportedly to seek greater economic opportunity or shortcuts to immigration to other countries. Government officials monitored certain highland minorities

closely, particularly several ethnic groups in the Central Highlands, because of concern that the religion they practiced encouraged ethnic minority separatism.

The government continued to impose security measures in the Central Highlands in response to concerns over possible ethnic minority separatist activity. There were reports that ethnic minority individuals telephoning the ethnic minority community abroad were a special target of police attention. There were a few reports that members of ethnic minorities seeking to enter Cambodia were returned by Vietnamese police operating on both sides of the border, sometimes followed by police beatings and detentions.

The government continued to address the causes of ethnic minority discontent through special programs to improve education and health facilities and expand road access and electrification of rural communities and villages. The government allocated land to ethnic minorities in the Central Highlands through a special program, but there were complaints that implementation of these special programs was uneven.

The government maintained a program to conduct classes in some local ethnic minority languages in elementary and secondary schools. The government worked with local officials to develop local language curricula, but it appeared to implement this program more comprehensively in the Central Highlands and the Mekong Delta than in the mountainous northern and northwestern provinces. Ethnic minorities were not required to pay regular school fees, and the government operated special schools for ethnic minorities in many provinces, including subsidized boarding schools at the middle- and high-school levels. The government offered special admission and preparatory programs as well as scholarships and preferential admissions at the university level. There were also a few government-subsidized technical and vocational schools for ethnic minorities. Nonetheless, there were credible cases of discrimination against Christian ethnic minorities, although the law provides for universal education for children regardless of religion or ethnicity.

The government broadcast radio and television programs in ethnic minority languages in some areas. The government also instructed ethnic-majority Kinh officials to learn the language of the locality in which they worked. Provincial governments continued initiatives designed to increase employment, reduce the income gap between ethnic minorities and ethnic Kinh, and make officials sensitive and receptive to ethnic minority culture and traditions.

The government granted preferential treatment to domestic and foreign companies that invested in highland areas, which are populated predominantly by ethnic minorities. The government also maintained infrastructure development programs that targeted poor, largely ethnic minority areas and established agricultural extension programs for remote rural areas.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.—A homosexual community existed but was largely underground. There are no laws that criminalize homosexual practices. There was no official discrimination in employment, housing, statelessness, or access to education or health care based on sexual orientation, but social stigma and discrimination was pervasive. Most homosexual persons chose not to tell family of their sexual orientation for fear of being disowned.

There was growing public awareness of homosexuality and little evidence of direct official discrimination based on sexual orientation. Despite Ministry of Culture regulations specifically limiting beauty contests to “female citizens ages 18 or over,” the number of, and participation in, transvestite and transgender beauty contests in Ho Chi Minh City increased. Several annual competitions gained notoriety, and several transgender and transvestite beauty queens emerged as prominent celebrities.

Other Societal Violence or Discrimination.—There was no evidence of official discrimination against persons with HIV/AIDS, but societal discrimination against such persons existed. Individuals who tested positive for HIV/AIDS reported latent social stigma and discrimination, although not in receiving medical treatment for their condition. The law states that employers cannot fire individuals for having HIV/AIDS and doctors cannot refuse to treat persons with HIV/AIDS. However, there were credible reports that persons with HIV/AIDS lost jobs or suffered from discrimination in the workplace or in finding housing, although such reports decreased. In a few cases, children of persons with HIV/AIDS were barred from schools. Some parents removed their children from a school in Ho Chi Minh City after the school allowed orphans with HIV/AIDS to attend, as required by law. With the assistance of foreign donors, the national government and provincial authorities took steps to treat, assist, and accommodate persons with HIV/AIDS and decrease societal stigma and discrimination, but these measures were not consistently ap-

plied. Religious charities were sometimes permitted to provide services to persons with HIV/AIDS.

Section 7. Worker Rights

a. The Right of Association.—The law does not allow workers to organize and join independent unions of their choice. While workers may choose whether or not to join a union and the level (local, provincial, or national) at which they wish to participate, every union must be affiliated with the country's only trade union, the Vietnam General Confederation of Labor (VGCL).

The VGCL, a union umbrella organization controlled by the CPV, approves and manages a range of subsidiary labor unions organized according to location and industry. By law the provincial or metropolitan branch of the VGCL is responsible for organizing a union within six months of the establishment of any new enterprise, and management is required to cooperate with the union.

According to VGCL statistics, in 2008 its total membership was more than 6.3 million, or an estimated 39 percent of the country's approximately 16 million wage earners. Of the VGCL members, 36.5 percent worked in the public sector, 33.1 percent in state-owned enterprises, and 30.4 percent in the private sector. The VGCL claimed that its membership represented 95 percent of public-sector workers and 90 percent of workers in state-owned enterprises. Approximately 1.7 million union members worked in the private sector, including in enterprises with foreign investment (more than 700,000 persons). In actuality 85 percent of state-owned enterprises, 60 percent of foreign-invested enterprises, and 30 percent of private enterprises were unionized.

While the law does not allow for independent unions, a 2007 revision states that the negotiation of disputes can be led and organized by "relevant entities," which may be composed of worker representatives when the enterprise in question does not have a union. While the law allows for "union activities," especially during emergency situations such as a strike, the VGCL is required to establish an official union within six months. There was little evidence that leaders or organizations active during this six-month window continued to be active or recognized afterwards.

There are mandatory union dues for union members of 1 percent of salary, and employers must contribute 2 percent of payroll. In foreign direct investment companies, employers are required to contribute 1 percent of payroll. While these dues are intended to support workers and union activities, there was little transparency regarding their use. The vast majority of the workforce was not unionized and did not pay union dues, as almost 34 million of the 45.3 million total laborers lived in rural areas and engaged in activities such as small-scale farming or worked in small companies and the informal private sector.

Union leaders influenced key decisions, such as amending labor legislation; developing social safety nets; and setting health, safety, and minimum wage standards. However, the VGCL asserted that authorities did not always prosecute violations. MOLISA acknowledged shortcomings in its labor inspection system, emphasizing that the country had an insufficient number of labor inspectors. The VGCL stated, and MOLISA acknowledged, that low fines on firms for labor violations failed to act as an effective deterrent against violations.

Strikes are illegal if they do not arise from a collective labor dispute or if they concern problems that are outside of labor relations. Before a legal strike can be held, workers must take their claims through a process involving a conciliation council (or a district-level labor conciliator where no union is present); if no resolution is obtained, the claims must be submitted to a provincial arbitration council. Unions (or workers' representatives where no union is present) have the right either to appeal decisions of provincial arbitration councils to provincial people's courts or to go on strike. Individual workers may take cases directly to the people's court system, but in most cases they may do so only after conciliation has been attempted and has failed. The amendment also stipulates that workers on strike will not be paid wages while they are not at work.

The labor code prohibits strikes in 54 occupational sectors and businesses that serve the public or that the government considers essential to the national economy and defense. A decree defines these enterprises as those involved in electricity production; post and telecommunications; railway, maritime, and air transportation; banking; public works; and the oil and gas industry. The law also grants the prime minister the right to suspend a strike considered detrimental to the national economy or public safety.

The vast majority of strikes typically did not follow the authorized conciliation and arbitration process and thus were considered illegal "wildcat" strikes. The number of such strikes markedly declined during the year, with only 309 occurring in the year. This followed a three-year upsurge, which saw the number of wildcat

strikes increase from 387 in 2006 to 762 in 2008. Most economists attributed the spike in the number of strikes in 2008 to dramatic increases in the cost of living, with inflation peaking at 28 percent in August 2008, and the relative decline in the number of strikes during the year to the return to single-digit inflation and worker concern with the slowing economy.

More than 90 percent of “wildcat” strikes occurred in Ho Chi Minh City and surrounding provinces. While these strikes were illegal under the law, the government tolerated them and took no action against the strikers. The law prohibits retribution against strikers, and there were no reports of retribution. In some cases the government disciplined employers for the illegal practices that led to strikes, especially with foreign-owned companies. By law individuals participating in strikes declared illegal by a people’s court and found to have caused damage to their employer are liable for damages.

b. The Right to Organize and Bargain Collectively.—The law provides VGCL-affiliated unions the right to bargain collectively on behalf of workers; the law was generally enforced, although VGCL-affiliated unions were not independent. Collective labor disputes over rights must be routed through a conciliation council and, if the council cannot resolve the matter, to the chairperson of the district-level people’s committee. Amendments made to the labor law in July 2008 divide such disputes into those over rights (compliance with the law) and those over interests (demands beyond what the law provides), setting out different procedures for both. The law stipulates an extensive and cumbersome process of mediation and arbitration that must be followed before a strike may take place.

There are no special laws or exemptions from regular labor laws in export processing zones and industrial zones. There was anecdotal evidence that the government enforced the laws more actively in the zones than outside them. However, there were credible reports that employers in the zones tended to ignore worker rights and to use short-term contracts to avoid the legal requirement to set up a union.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced and compulsory labor, including by children; however, there were reports that such practices occurred.

Prisoners routinely were required to work for little or no pay. They produced food and other goods used directly in prisons or sold on local markets, reportedly to purchase items for their personal use.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits most child labor but allows exceptions for certain types of work. However, child labor remained a problem, particularly in rural areas, where two-thirds of the population resided. The law sets the minimum age for employment at 18, but enterprises may hire children between 15 and 18 if the firm obtains permission from parents and MOLISA. In 2006 MOLISA reported that approximately 30 percent of children between the ages of six and 17 participated in some economic activity, usually on family farms or in family businesses not within the scope of the law.

By law an employer must ensure that workers under 18 do not undertake hazardous work or work that would harm their physical or mental development. Prohibited occupations are specified in the law. The law permits children to register at trade training centers, a form of vocational training, from the age of 13. Children may work a maximum of seven hours per day and 42 hours per week and must receive special health care. A 2008 MOLISA survey reported that there were more than 25,000 children working in conditions considered hazardous.

In rural areas children worked primarily on family farms and in other agricultural activities and household responsibilities. In some cases they began work as young as age six and were expected to do the work of adults by the time they were 15. Especially during harvest and planting seasons, some parents did not permit children to attend school. Migration from rural to urban settings exacerbated the child labor problem, because unauthorized migrants were unable to register their households in urban areas. Consequently, their children could not attend public schools, and families had less access to credit. Officials stated that juveniles in education and nourishment centers, which functioned much as reform schools or juvenile detention centers, were commonly assigned work for “educational purposes.”

In urban areas children worked in family-owned small businesses or on the street shining shoes or selling articles such as lottery tickets and newspapers. One shelter reported that children as young as nine years were lured into Ho Chi Minh City to sell lottery tickets. Child labor was also increasingly common in small urban factories. Labor officials in Ho Chi Minh City declared that during the year, 62 out of 173 production units they inspected used illegal child labor. Most were garment or mechanic workshops in Binh Tan, Tan Phu, and Binh Chanh districts. Govern-

ment inspectors reported that more than 96 percent of child workers were employed by word of mouth without official documentation and 75 percent of these children were from the central coast and Mekong Delta provinces.

MOLISA is responsible for enforcing child labor laws and policies. Government officials may fine and, in cases of criminal code violations, prosecute employers who violate child labor laws. While the government committed insufficient resources to enforce effectively laws providing for children's safety, especially for children working in mines and as domestic servants, it detected some cases of child exploitation, removed the children from the exploitative situations, and fined the employers.

The government also continued programs to eliminate persistent child labor, with a particular focus on needy families and orphans.

e. Acceptable Conditions of Work.—The law requires the government to set a minimum wage, which is adjusted for inflation and other economic changes. The official monthly minimum wage for unskilled laborers at foreign-investment joint ventures and foreign and international organizations was between 1.08 million VND (\$60) and 1.2 million VND (\$67) in urban areas and approximately 950,000 VND (\$53) in rural areas. The official monthly minimum wage for unskilled labor in the state sector was approximately 650,000 VND (\$36). For employees working for national companies, on farms, or in family households, the official minimum wage was between 650,000 VND (\$36) and 800,000 VND (\$45), based on region of the country. While this was above the poverty line set by the government, many considered this amount inadequate to provide a worker and family a decent standard of living.

The government set the workweek for government employees and employees of companies in the state sector at 40 hours, and it encouraged the private business sector and foreign and international organizations that employed local workers to reduce the number of hours in the workweek to 40 hours but did not make compliance mandatory.

The law sets normal working hours at eight hours per day, with a mandatory 24-hour break each week. Additional hours require overtime pay at one and one-half times the regular wage, two times the regular wage for weekdays off, and three times the regular wage for holidays and paid leave days. The law limits compulsory overtime to four hours per week and 200 hours per year but provides for an exception in special cases, where this maximum can be up to 300 overtime hours worked annually, subject to stipulation by the government after consulting with VGCL and employer representatives. The law also prescribes annual leave with full pay for various types of work. It was unclear how strictly the government enforced these provisions.

By law a female employee who is engaged to be married, pregnant, on maternity leave, or caring for a child under one year of age cannot be dismissed unless the enterprise closes. Female employees who are at least seven months' pregnant or are caring for a child under one year of age cannot be compelled to work overtime, at night, or in locations distant from their homes. It was not clear how well the law was enforced.

The law requires the government to promulgate rules and regulations that ensure worker safety. MOLISA, in coordination with local people's committees and labor unions, is charged with enforcing the regulations, but enforcement was inadequate because of low funding and a shortage of trained enforcement personnel. On-the-job injuries due to poor health and safety conditions in the workplace were a problem. The greatest number of occupational injuries was caused by machinery such as rolling mills and presses.

According to a July 2008 survey by MOLISA on working conditions in small and medium-sized enterprises, up to 80 percent did not meet minimal work safety requirements, 8 percent had working conditions described as considerably poor, and 90 percent used obsolete machines and equipment. Employees typically worked in hazardous working environments—31 percent worked in very hot conditions, 24 percent in excessively noisy conditions, and 17 percent in places with high levels of dust.

The law provides that workers may remove themselves from hazardous conditions without risking loss of employment; however, it was unclear how well this was enforced. MOLISA stated that there were no worker complaints of employers failing to abide by the law.